

**TEXT IS CROSS IN  
THE BOOK**







BOOKS BY  
THE SAME AUTHOR

SCANDALOUS PRINCESS  
(THE EXQUISITE THÉRESIA CABARRUS)  
NOBLE EXPERIMENT  
THE LINDBERGH CRIME





BRUNO RICHARD HAUPTMANN

*Atome*

convicted kidnaper of the Lindbergh child, pictured in the Flemington courtroom during the trial. Behind the kidnaper's right shoulder, with pencil poised, is Sidney B. Whipple, the editor of this volume.

THE TRIAL OF  
BRUNO RICHARD  
HAUPTMANN

EDITED WITH A HISTORY OF THE CASE

By  
SIDNEY B. WHIPPLE



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*To My Daughter*

TORY



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THE TRIAL OF BRUNO RICHARD HAUPTMANN



§ 1

ON THE NIGHT of March 1, 1932, the infant son of Colonel Charles A. Lindbergh was stolen from a crib in the nursery of his parents' home in Hopewell, New Jersey. On the night of April 2 Colonel Lindbergh paid \$50,000 through an intermediary to a shadowy figure in a Bronx cemetery, on the kidnaper's promise to return the child unharmed. On May 12 the baby's body, bearing an extensive skull fracture, was found in a makeshift grave, in a thicket five and a half miles from the scene of the kidnaping.

The crime, in addition to being one of the most sensational, was one of the most daring exhibitions of criminal conceit in American history. It was conceived and executed by a lone amateur who operated with such precision and obliterated his tracks so well that he eluded the police for thirty months after its commission.

If the planning of such an outrage, directed against a family which occupied a place high in the emotions of the American people, demanded a cold criminal intellect, the actual commission of it, considering the physical obstacles involved, likewise required crafty and atrocious genius. Finally, it needed a maximum of timely coincidence—of “luck”—to achieve even partial success.

The Lindbergh estate at Hopewell, secluded in the foothills of the Sourland Mountains of New Jersey, was not readily accessible from any large city, and its site had been selected for that very reason. Both Colonel Lindbergh and his wife, Anne, daughter of the late Senator Dwight W. Morrow, sought to exclude an importunate world from sharing in their daily lives and from interfering with the proper rearing of their son, Charles A. Lindbergh, Jr, then twenty months old. The child, fair haired and blue eyed, was physically and mentally normal and was beginning to talk intelligibly.

The residence, built in modification of a French manor, was of whitewashed field stone, two and a half stories in height.

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The ground floor included an entrance hall, a large living room with two fireplaces, library, dining room and kitchen. Off the kitchen was a servants' sitting room. Over the living room were the Lindberghs' sleeping apartments. One wing, containing the garage, housed the servants. The other, its windows opening to the south and west, was given over to the baby's nursery and sleeping quarters. Although this house so far approached completion that it could be used as a dwelling, some furnishings and a few adjustments remained to be done before the work could be considered finished. Many rooms, for instance, were uncurtained, which rendered certain movements of the inhabitants visible to a person who might have been watching the house with felonious designs. And shutters at one nursery window were so warped by the winter weather that they could not be fastened. These factors were highly important to the kidnaper.

At this period it was the custom of the Lindberghs to divide their time between the Hopewell residence (usually during week ends) and the Morrow home in Englewood (from Monday to Friday). Two circumstances, again favoring the plans of the criminal, brought about a sudden change of program, as a result of which the family remained in Hopewell on Tuesday, March 1, 1932, instead of going, as they had intended, to Englewood. The first was the weather, which was blustery, cold and unpleasant for travel. The second was that the baby was suffering from a cold, and Mrs Lindbergh considered it unwise to expose him to the journey.

In addition to the parents and the child, the Lindbergh establishment at that time consisted of three servants—Oliver Whateley, an English butler; his wife, Elsie, cook and maid; and Betty Mowat Gow, nursemaid. Miss Gow, on the morning of March 1, was at the Morrow home in Englewood, awaiting the expected arrival of her employers, but shortly before noon was summoned by a telephone message from Mrs Lindbergh, who informed her of the change in plans. Before leaving Englewood Miss Gow attempted, but failed, to communicate with Arthur Johnson, a Scandinavian sailor in whom she was interested, to tell him she would have to break an engagement with him for that evening. She arrived in Hopewell at 1:20 P.M., in an automobile driven by one Ellison, the Morrows' second chauffeur.

At 4:00 P.M., while Miss Gow was in the nursery caring for

the child after his usual afternoon nap, Mrs Lindbergh, returning from a short stroll, stood for a moment below the nursery window and threw pebbles at it to attract the attention of the nurse and baby, waving to the child when he appeared at the window. The imprint of her shoe was left in the soft ground.

Shortly before six o'clock Miss Gow fed the baby his supper in the nursery and then, in the presence of Mrs Lindbergh, prepared him for bed. Because of the infant's condition these preparations were more than ordinarily elaborate. First the baby's chest was rubbed with medicated oil, and a mild physic was administered. At that point the nurse decided to make him "a proper little flannel shirt to put on next his skin." This was done from material at hand and with a distinctive blue thread furnished by Mrs Whateley. Over this the child had an ordinary woolen shirt and, in addition to diapers and a rubber covering, a sleeping suit, to each sleeve of which was fastened a thumb guard of noncorroding Monel metal. At eight o'clock, when the baby was at last asleep and breathing easily, the nurse turned out the light and went downstairs to the servants' sitting room, where, during the next half-hour, she had supper with Mrs Whateley.

When Miss Gow left the nursery, not to return to it until shortly before ten o'clock, two of the three windows were closed, and the shutters were fastened except for that one where warping prevented secure locking. From that window to the crib, a matter of three or four steps, was an almost unobstructed passage. The only possible obstacle was a suitcase, reposing on a low chest directly beneath the window. A decorative beer stein, which was later to figure in defense imaginations, had been placed in a recess by the side of the window. A burglar, sliding through the window, could not come in contact with that object.

At 8:25 P.M., while Betty Gow and Elsie Whateley were at supper, Colonel Lindbergh arrived home. He passed through the servants' quarters, asked Betty Gow about the baby's condition and joined his wife. During the following half-hour the Colonel and Mrs Lindbergh had dinner, served by Oliver Whateley, while Miss Gow and Mrs Whateley amused themselves with the radio and magazines in the servants' sitting room. At nine o'clock the nursemaid and the butler's wife went upstairs to Mrs Whateley's room to look at a new dress Mrs

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Whateley had purchased. They remained there chatting for nearly an hour.

Meanwhile, after dinner Colonel Lindbergh and his wife sat in the living room for about fifteen minutes. During this brief episode, at about 9:10 P.M. according to the colonel's recollection, he heard a crash which sounded vaguely "like the slats of an orange box falling off a chair." He made no investigation of the noise, though it intruded in the conversation sufficiently to cause him to stop and ask his wife, "What is that?" Shortly afterwards he went upstairs, took a bath while his wife was preparing to retire and then returned downstairs, at about 9:30 P.M., to read in the library.

The desk at which Colonel Lindbergh sat was close beside a window directly beneath the nursery window whose shutter was unfastened. While he was in the library the colonel heard no unusual noise, and through the window itself, unobstructed by curtains, saw no ladder. These circumstances, it would seem, would limit the execution of the crime to the few minutes between 9:00 and 9:15 P.M.

Shortly before ten o'clock Betty Gow walked from Mrs Whateley's room to the nursery in the other wing to look after the baby. Not wishing to disturb the child if he were sleeping comfortably, she failed to turn on the light, but did turn on an electric heater. Finding her way to the crib through the dim light that entered from the hall door, she groped through the blankets in the semidarkness and found no child there. He had been removed from the crib without even disturbing two large safety pins which fastened the blankets to the mattress at each side. Although puzzled by the baby's absence, Miss Gow felt no alarm for the moment. She went to Mrs Lindbergh's room and asked if the mother had the baby. Mrs Lindbergh, equally puzzled, told the nursemaid to ask the colonel, who was in the library, if he had taken his son. The colonel, informed that the child was missing from his crib, rushed upstairs with the now frightened nursemaid, and a frantic and futile search of all the rooms was begun. It became startlingly apparent that the baby had been abducted. Colonel Lindbergh told Oliver Whateley to call the police. He himself seized a rifle and dashed out of doors in a fruitless attempt to catch the fleeing kidnaper.

The first police arrivals, summoned by the efficient butler, were Chief of Police Harry Wolfe of Hopewell, together with

his constable, Charles E. Williamson. After them came Troopers Joseph Wolfe, Lewis J. Bornmann and Nuncio de Gaetano. Trooper Frank A. Kelly, fingerprint expert for the New Jersey State Police, arrived a few minutes after midnight. Meanwhile, taking active charge of police detail, Major Charles Schoeffel and his superior, Colonel H. Norman Schwarzkopf, superintendent of the state police, had reached the stricken home. Among the civilian arrivals, and one who was to figure vividly in subsequent events, was Colonel Lindbergh's friend and legal adviser, Colonel Henry C. Breckinridge of New York.

It was Colonel Lindbergh who first saw lying on the sill of the window through which the kidnapер had presumably departed—closing the window carefully after him—a plain white envelope. With rare presence of mind, although in this instance it availed nothing, he ordered that the envelope remain untouched until it could be handled properly, to prevent the obliteration of possible fingerprints. When the envelope eventually was opened by Major Schoeffel, it was found to contain the following note:

DEAR SIR

Have 50000\$ ready 25000\$ in  
20\$ bills 15000 in 10\$ bills and  
10000\$ in 5\$ bills. After 2-4 days  
we will inform you were [sic] to  
deliver the mony [sic] We warn you  
for making anyding public or for  
notify the police. The child is in  
gut care. Instruction [or indication]  
for the letters are singnature

The "singnature" consisted of two interlocking circles, with three holes, presumably made by some mechanical instrument, near the perimeters.

Hampered by darkness, the police officers and Colonel Lindbergh made a hurried inspection of the grounds. There was little question as to which window had been used by the kidnapер. Muddy prints on the window sill, the suitcase beneath it, and the floor had marked a trail from the warped shutters to the crib. In the soil below that window the police found two indentations manifestly made by the ends of a ladder. The ladder itself was discovered some sixty feet from the house, where

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it had been abandoned foolishly (although perhaps of necessity) by the criminal. Because this ladder was to become the focal point of investigation a description of it is important. It was a crudely constructed instrument, built in three sections. The rails of the bottom section were far enough apart to permit the middle and top sections to "nest" between them compactly. Each section was approximately seven feet long. The sections were held together, when extended, by means of dowel pins, which could be slipped through accurately matched holes in the ladder rails. When found, the two lower sections were still held together by this device. The third section, unattached, was found ten feet away, with its dowel pin in the grass near by. The top rung of the lower section, at the point where the ladder was weakest, had been badly split, obviously breaking under the weight of the kidnaper and his burden, and this instantly recalled to the detectives Colonel Lindbergh's description of the noise he heard, "like the crash of wooden slats of an orange box", shortly after nine o'clock.

Not far from this ladder the investigators found a  $\frac{3}{4}$ -inch chisel of common make.

At a point some eighteen inches from the indentations made by the ladder below the window a single footprint, facing towards the house, was discovered. It was not a clear print, but in its blurred outlines, in the illumination of their flash-lights, certain regular ridges and indentations gave rise to the theory that the man responsible for the print had worn stockings or some woolen covering over his shoes. The police in charge were not sufficiently alert to take the exact measurements of this print nor to preserve it by making a plaster cast. Trooper Nuncio de Gaetano described it "by guess" as about twelve and one eighth inches long and four and a quarter inches wide.

A second footprint, made by a woman's shoe, was also found and gave rise to momentary speculation—until it was recalled that here, during the afternoon, Mrs Lindbergh had stood while she threw pebbles at the nursery window.

The physical clues left behind by the author of the crime, then, were only four. In the order of their importance they were: the ladder, the ransom note found on the window sill, the chisel and the footprint. Any value that might have been attached to the last, however, was negated by the carelessness of the police. The chisel, which bore no fingerprints and which

could have been purchased in almost any American hardware store, was almost as worthless. The note and the ladder offered tangible, specific bases for deduction and investigation. From them the authorities were able to reconstruct, at least in outline, the criminal's most important operations.

He had reared two sections of his ladder against the wall of the house at a point beneath the window with the warped shutters. He had thrust open the window without using his chisel (for the window was not locked) and in three or four steps had reached the side of the crib. He had taken the child from the bed so quickly and easily that even the blankets, with their safety-pin fastenings, were undisturbed. Holding the child with one arm, he had dropped his ransom note on the window sill and carefully closed the window. In his descent of the ladder the added weight taxed the weakest rung too heavily, and the rung broke, perhaps precipitating him to the ground and causing the deep imprint of his shoe where it sank into the soft ground. He had removed the two sections of ladder and carried them, with the child, until the double burden—the ladder weighing forty pounds and the child thirty—forced him to abandon the less important mass.

When daylight came, on March 2, and with it battalions of newspaper reporters, official and amateur detectives, together with thousands of the morbidly curious public, the New Jersey police authorities were in a state of complete bewilderment. If the general public were whipped into mass hysteria by the enormity of the crime, it is no exaggeration to say that the police were suffering, in the sudden spotlight, from a bad attack of stage fright. They were overwhelmed by the magnitude of their task.

The New Jersey State Police were neither designed nor equipped to cope with such a crime. A semimilitary body, created to maintain the peace in the hinterland, they had no Scotland Yard and boasted no first-rank detectives. Yet, jealous of the authority so suddenly thrust into their hands, they clung to their control of operations through many long and blundering months.

Of the sincerity and zeal that lay behind the efforts of Colonel Schwarzkopf's men there can be no question; and certain elements entered into the case from the outset which were to militate against effective work.

Colonel Lindbergh, with the sympathetic support not only

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of his advisers but of the whole world, took the understandable position that the first requisite was the return of his child; that the parents' rights, in all humanity, must be set above the rights of the state and society. He was determined that no act of the police should obstruct or hamper this undertaking, and he would brook no interference with this program. The police therefore bowed to his decision and pursued their own helter-skelter investigations as best they could. They were hampered, too, by a myriad of false clues, reports, rumors, clairvoyant dreams, illusions and hallucinations, and no matter how bizarre and unbelievable these might be, duty required their investigation.

The strangely perfunctory inspection of the nursery, and particularly the ladder, revealed no additional clues at this time. A few blurred finger marks but no identifiable prints were found on the woodwork in the nursery. Not a single useful ridge or whorl was found on the ladder by the dusting process. It was not until more than a week later that the silver-nitrate process, developed by Dr Erasmus Hudson<sup>1</sup> for use on unpainted wood, was used, and by that time the ladder had been fingered and handled by scores of persons, all of whom left confusing prints on it.

One point, however, should be made clear at this time. When George G. Wilton, photographer for the New Jersey State Police, photographed the ladder on March 8, 1932, his picture distinctly showed four nail holes at one end of a ladder rail. This silent evidence, nearly three years later, was to become vital.

The two major clues left by the criminal—the ladder and the ransom note—nevertheless were stamped with sufficient individuality to provide certain logical conclusions as to their author.

The ladder, it is true, was not a work of art, but a crudely finished instrument, manifestly not intended for any permanence. But recesses had been sawed and chiseled out of the rails to provide footing for the rungs, and these recesses were in perfect alignment. The dowel pins, fitting snugly in their proper holes, and the manner of connecting the three sections indicated knowledge, if not skill, in carpentry and mechanics.

A note containing some fifty words affords little more than

<sup>1</sup> See testimony, page 496.

slight basis for analysis, particularly when it is considered that the handwriting might have been disguised, that the language might have been purposely distorted and that certain words might have been misspelled by design, but if these objections were arbitrarily waived, at least one conclusion could be drawn from the written demand for ransom that had been found on the window sill. The author of the note was of Teutonic origin. The habit of writing the dollar sign after the figures followed European Continental custom. "Anyding" and "gut" were pure Germanisms.

Going farther afield in their speculation, the authorities might have reasoned (and some of them did) that the crime was not the work of a gang. The modesty of the ransom demand, a mere \$50,000, was not consistent with the custom of organized gangs in an age where \$200,000 plots were the rule rather than the exception with that class of criminals. And would any gang be satisfied with a comparatively small "split" as a reward for undertaking the tremendous hazard? The thought was scarcely tenable, yet many of the police and some of their civilian advisers persisted in clinging to the gang theory for months.

Much time was therefore wasted in pursuing phantoms of the nation's underworld, and the engagement by Colonel Lindbergh of Morris Rosner—and, through him, Salvatore Spitale and Irving Bitz, prohibition racketeers—in a pathetic attempt to reach the supposed gang was one phase of the confusion and cross-purposes existing through the months of March and April after the kidnaping.

While the police, meanwhile, were expending their efforts in fruitless investigation the real kidnaping, by the most direct and incisive methods, was continuing to press his demands for quick payment of the ransom. His demands were not accompanied, it should be noted, by threats of injury to the child, but with smooth promises that he would be returned unharmed and in "gut" health.

## § 2

The kidnaping's second note, sent through the mail to Colonel Lindbergh's Hopewell residence, was an amplification of the first. It repeated the previous warning against calling in the police, reassured the Lindberghs regarding the baby's

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health but raised the ransom demand to \$70,000 because "we have to take another person to it and probable have to keep the baby for a longer time as we expected."

A third note, similar in tone, was delivered through Colonel Breckinridge, and it was evident that the kidnaper was keeping a close watch over all newspaper accounts and hence knew to whom he should direct his negotiations. Colonel Lindbergh's response to these communications was to let the world—and the kidnaper—know that he was willing and anxious to negotiate, on a pledge that he would keep the police out of the case. There was no question about the "genuineness" of the man who wrote the second and third notes. The script was similar to that found on the window sill. The twisted, Teutonic expressions were of a similar pattern. And to clinch the identification, the "signature" was the now familiar interlocking circles and the three holes.

Meanwhile a host of prominent and honorable citizens had volunteered their services to Colonel Lindbergh and announced publicly their willingness to act as go-betweens. Among them were the presidents of Columbia and Princeton universities. Also among them was an eccentric old gentleman of the Bronx named John F. Condon, lecturer at Fordham University, athletic instructor, welfare worker, patriot and doctor of pedagogy.

The outrage against the "first family of America" shocked the doctor to the depths of his benevolent heart, and in an interview with a reporter for the *Home News*, a community newspaper published in Bronx County, he made his feelings plain. He would not only face the dangers of communicating with the kidnaper, but he would give his entire life savings, \$1000, as a sort of bonus for the safe return of the child. He promised secrecy and urged the kidnaper, if he were unwilling to deal on the strength of such a promise, to go to a priest under the seal of the confessional. The interview was printed on the first page of the *Home News* on March 8, exactly one week after the kidnaping. Late in the following day, when he returned from lecturing in New York, he found a letter had been delivered at his home in Decatur Avenue through the regular mail.

The letter, containing a sealed enclosure, advised Dr Condon that if he was willing to act as go-between he should "handel incloced letter personally" to Colonel Lindbergh and

thereafter remain in his own house every night from the hours of six to twelve o'clock.

"I felt rather pleased to think that I was honored," Dr Condon naïvely admitted in his recital of the occurrence.

Not wishing to disturb his family, who, he felt, might be worried over the potential dangers of the situation, Condon put this letter in his pocket, conscientiously refraining from opening the enclosure addressed to Colonel Lindbergh. The letter addressed to him bore no distinguishing signature. The doctor then went, shortly before midnight, to the restaurant of his friend, Max Rosenhain, to seek counsel and advice. Rosenhain urged immediate communication with Hopewell, and Condon put in a telephone call from the restaurant to the Lindbergh residence. After reading the contents of the first letter to a person high in authority—not Lindbergh—he was requested to open the enclosure and read that also. The second note authorized Condon to act as go-between, gave instructions for making "a packet" 7 by 6 by 14 inches in dimensions to contain the expected \$70,000 in ransom money. A drawing illustrating the size of the package showed that the writer had a knowledge of perspective. This note had been stamped with the kidnaper's mark—the rings and circles—and upon such proof of its authenticity, Condon was bidden to Hopewell.

In the ensuing conference Condon was advised to obey the kidnaper's instructions implicitly and to insert advertisements in newspapers, as suggested by the writer of the notes, to say that the money would be forthcoming. The procedure was faithfully carried out and resulted, under circumstances which again revealed the criminal's extreme caution, in the first meeting between the educator and the extortioner.

During the evening of March 10 Condon received a telephone call from an unnamed communicant who told him to remain at home on March 12, when he would receive another message. At 8:30 P.M. on that date, while Dr Condon, Colonel Breckinridge and three of the doctor's friends, Alfred J. Reich, Max Rosenhain and Milton Gaglio, were sitting in nervous anticipation in the Condon home a taxicab driver named Joseph Perrone rang the doorbell and delivered a written communication containing further instructions. As directed, the doctor departed at once, accompanied only by Reich as his chauffeur, and went to a deserted "frank-further stand" near the end of

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the Jerome Avenue subway line, where he found another note beneath a designated rock, containing further directions for meeting the negotiator near the great gates of Woodlawn Cemetery.

The story of this dramatic meeting has been recounted a thousand times and formed the basis for a considerable portion of Dr Condon's later testimony. The man with whom Condon talked for more than an hour while sitting on a park bench called himself "John", spoke with a Germanic accent—although he claimed to be a Scandinavian—and insisted he was only one, and not the leader, of the gang that held the baby in their possession. In the course of the long conversation he asked one question which, in the light of later developments, was extremely significant.

"Would I burn if the baby is dead?"

"Not if you did not have some part in it," Condon assured him.

Also during this meeting Condon displayed two large safety pins and asked "John" if he recognized them. The extortioner identified them as the pins that had attached the blankets to the mattress in the Lindbergh crib and through that admission definitely identified himself as the real kidnapers.

The negotiator told Condon there were five persons in the gang, in which he ranked as No. 2; that two women were included in the five; and that the baby was alive and well but on board a boat which could not readily be reached. He refused Condon's plea to be allowed to see the baby but declared his willingness to send unmistakable proof that he was "the right party", delivering up some of the child's apparel.

The first conference took place on March 12, which was a Saturday. Then came a three days silence, and at last, on the evening of March 15, the return of the sleeping suit in which Charles A. Lindbergh, Jr had been put to bed on the night of the kidnaping. The suit, which had been cleaned, was identified by Colonel Lindbergh.

Negotiations continued through newspaper advertisements signed "Jafsie", the cryptonym suggested by his initials, J.F.C., until April 2, when final preparations were made and carried out for payment of the ransom.

Because Condon believed he could persuade the kidnapers to reduce his demand to the original \$50,000 that sum, in notes of which the serial numbers had been taken, was placed in a

box, and \$20,000 more was carried along to the appointed rendezvous in a separate package. The box enclosing the \$50,000 had been specially prepared of 5-ply wood, readily identifiable in the event of its possible later appearance.

The arrangements were that Colonel Lindbergh should drive the car, taking the doctor wherever the kidnaper's notes instructed, and that no police guard, shadow or escort should accompany the two principals. This arrangement was insisted upon over the vigorous objections of all the police involved and in complete disregard of the urgings of many of Colonel Lindbergh's wisest advisers. Even Condon, who was so seemingly sure of his ground, had consistently opposed the payment of any money "without delivery of the goods" but had been overruled.

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9  
On the question was raised, at a much later date, whether the injunction laid down by Colonel Lindbergh was not actually violated and whether at least two officials did not follow the ransom party. It is quite possible that this was true, but if the officers went along they observed nothing whatsoever of subsequent value.

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H 3  
11  
43  
On Whittemore Avenue, a dirt road bounding the northwest side of St Raymond's Cemetery, Colonel Lindbergh stopped and parked the car while Condon alighted and went to the cemetery fence, fulfilling instructions received from the kidnaper in a message hidden beneath a stone near a designated florist's shop. A remark by Condon drew from the extortioner the exclamation, "Hey, Doctor." Colonel Lindbergh heard the shout, and the strange accent and peculiar tonal quality of the voice were forever fixed in his brain.

3  
After some argument the extortioner accepted the \$50,000 in lieu of the larger amount but required ten minutes to produce the "receipt" with instructions for finding the baby. There was a wait while "Cemetery John" disappeared, and then the deal was consummated, the extortioner handing Condon a note and Condon transferring to him the package of money.

The document handed to Condon was the last ever to be received from the kidnaper. It said:

The boy is on the boat [boat] Nelly. It is a small boat 28 feet long. Two persons are on the boat.  
The [they] are innocent. You will find the boat between Horseneck Beach and Gay Head near Elizabeth Island.

The ransom was paid on Saturday night, April 2. On Sunday and Monday Colonel Lindbergh, accompanied by a federal officer and Dr Condon, flew over the described territory during every daylight hour. The search was futile, for the "broad Nelly" was the kidnaper's brutal fiction.

Both to Colonel Lindbergh and Dr Condon the inescapable conclusion that they had been the victims of a heartless swindle came as a stunning blow. Condon tried to keep his faith in the kidnaper alive and inserted several advertisements in the daily press pleading with the extortioner for "more information", but there was no response.

Nor, for the present, were any more clues made available. Several days after the ransom payment and after Colonel Lindbergh's futile flights over Long Island Sound a search of the cemetery for the box in which the ransom money was delivered was made, but no trace of it was found. A plaster cast of a footprint made near an open grave close by the scene of the payment was taken by Ralph Hacker, Condon's son-in-law, but this was a valueless piece of evidence, for there was absolutely nothing to link it to the extortioner. It might have been made by a workman.

The unhappy ending of this phase of the case drew Condon out from under the natural protection that had been afforded him as the chief negotiator for Colonel Lindbergh. Thereafter he was subjected to the far from tender ministrations of the police and every manner of inquisitorial investigation that could be devised by official minds.

The good doctor continued, as cheerfully as possible under the circumstances, to give his best to the case. He described in minute detail the features, carriage, figure and manner of speech of the man with whom he had held two long conversations. He even repeated, approximating the German accents as well as he could—although he was a poor mimic—the word-for-word speeches of the kidnaper, and a phonograph record of all this was made.

The most subtle insinuations and traps laid for him by the New York police and the most brutally searching remarks leveled at him by the New Jersey sleuths failed to shake the old gentleman, who was stanchly supported by Colonel Breckinridge and those who had followed the negotiations from their inception. The net result of such police efforts and the doctor's co-operation was that the authorities now had a fairly good

personal description of the suspected kidnaper. In the police records Condon pictured him as a man about five feet nine to nine and a half inches in height, weighing from a hundred and fifty-eight to a hundred and sixty-five pounds, of good muscular development, with "muddy blond" hair and light complexion, and of Scandinavian or German origin. The peculiarities of his voice were recorded, as well as the information that he seemed to be suffering, at the time of the ransom negotiations, from a serious cold. He wore no overcoat and kept his jacket buttoned well around his throat and chin. His hat was a soft felt with brim turned up.

Almost from the beginning of the case a small but intelligent faction among the police held to the theory that the kidnaper would never return the child alive. Starting with the premise that the criminal was a lone operator, they argued that he lied in his ransom notes when he claimed others were involved with him. This led to the thought that he also lied when he said the baby was in "gut health" and that it was the desire of the "gang" to return him unharmed. It was noted that never once did the writer of the extortion notes make threats against the person of their hostage, and this in itself was a violation of accepted custom among kidnapers.

The inconclusive completion of the Condon negotiations served to strengthen such suspicions, and the casual question of the extortioner, "Would I burn if the baby is dead?", added further grounds for the theory.

More than a month passed, however, before confirmation of the horrifying suspicion burst upon the world. On May 12 the badly decomposed body of the child was found, wholly by chance, lying face down in a shallow hollow, approximately five and a half miles from the Lindbergh home. The body was discovered by William Allen, Negro truck driver who, by fate, had entered the thicket on an errand of a personal nature.

Despite the condition of the body there was no question of identification. A slight malformation of the bones in one foot, the size of the child, the hair and other physical characteristics were proof to Colonel Lindbergh that it was his child. And in addition the body was clothed in the same garments in which the baby had been dressed by Betty Gow before the abduction, including the hastily stitched flannel shirt with its scalloped edges and telltale blue thread.

The pathetic revelation ended much of the confused and

uncertain operations of the police, who were now released to perform their normal task of pursuing the criminal. At one stroke the case was resolved into a hunt for a dual criminal—the kidnapер-murderer. Meanwhile the extortion had increased the small accumulation of clues. The authorities had in their possession fourteen examples of the extortioner's handwriting, of from fifty to a hundred words in length. They had the best description to date of the suspect and a complete list of the numbers of the bills in which he had been paid.

Co-operative effort between the agencies responsible for tracking down the suspect was strangely lacking, even at this time. The New Jersey police seemed jealously reluctant to divulge such important information as they had either to the New York City police or to federal officers. Not for months were "outside" police permitted to see even photostatic copies of the ransom notes, although the charge was made and partially sustained that certain persons having no official business in the case at all knew their contents. The New Jersey police deigned, indeed, to listen to Dr Erasmus Hudson and to watch his brief experiments with the new silver-nitrate process for bringing out fingerprints on wood. But they refused to permit Hudson to process the entire ladder, preferring to do the work with their own unskilled operatives—this after the ladder had been carried hither and thither through New Jersey, to be pawed over by scores of persons.

Out of this confusion, however, there gradually grew a semblance of orderly procedure and a division of duties. The New Jersey officials, for the most part, confined their activities to resolving local questions, such as the elimination of servants as suspects. The New York detectives, under leadership of the brilliant Lieutenant James J. Finn, devoted their attention to clues which seemed to run towards the Bronx. Of immense value in police speculation was a map prepared under the direction of the New York police Homicide Squad, in which colored pins marked the location of every spot at which a ransom bill was picked up. The map showed an unmistakable radiation from the borough north of Manhattan. Federal agents, representing the Bureau of Internal Revenue, the Bureau of Investigation of the Department of Justice and the Forest Service of the Department of Agriculture, divided their labors between the tracing of ransom bills and investigation of the ladder.

The first task of the New Jersey police had been to elimi-

nate any theory that the kidnaping was an "inside job", conceived or abetted by servants either of the immediate Lindbergh household or of the Morrow home, an arduous proceeding in view of the number of retainers in the two families. Their investigations, some inconclusive and sketchy and others so thorough as to lead to embarrassments, at last convinced them that the theory of inside assistance was untenable. They might from the outset have taken into consideration the highly important facts noted by Dr Dudley D. Schoenfeld, prominent psychiatrist, who considered first that the Lindberghs were in Hopewell on the fatal Tuesday contrary to their usual custom and that "if members of the household had been participants in the crime, their plan would have taken into consideration the usual customs and practices of the family, not the unusual."

Investigation into the lives of Betty Gow, Oliver and Elsie Whateley, their relatives, friends and acquaintances was painstaking and thorough. In the case of Betty Gow this necessarily included a search into the career of Arthur Johnson, a young man in whom she was interested, who was a Scandinavian sailor employed on the yacht of Thomas Lamont, and who was in the country illegally. Since it was this man to whom the nursemaid had attempted to telephone the news that she would be unable to keep her engagement for the evening of March 1, a more than perfunctory examination of him was indicated. An exhaustive probe, however, proved beyond the slightest shadow of a doubt that he had nothing to do with the crime. If the authorities made any mistake, it was in not bringing him back from Europe, whither he was deported upon his release, to confront later suspicion mongers.

In the same category of "unfortunate incidents" that for a time drew the police hounds away from the true trail and towards a false issue was the behavior under questioning of Miss Violet Sharpe, a waitress employed in the Morrow household, culminating in her suicide on June 10. Miss Sharpe, seeking to conceal an unconventional friendship for another young man, with whom she had spent the evening of March 1, from her fiance, Septimus Banks (the Morrow butler), had been trapped in a number of conflicting stories. She drank poison in a moment of hysteria, and her act was regarded by more than one unimaginative police official as tantamount to confession.

The entrance of that cheerful miscreant, Gaston B. Means, into the case may here be dismissed briefly. Means, notoriously

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a bad performer, glibly persuaded Mrs Evelyn Walsh McLean, Washington society woman, that he was in contact with the criminal "gang" who had stolen the baby. Before the finding of the child's body Mrs McLean had given Means \$104,000 to pursue negotiations with the alleged kidnapers. The plot was finally exposed, and Means was sent to the federal penitentiary at Atlanta for a term of seventeen years.

Still more cruel had been the hoax perpetrated by John Hughes Curtis, boatbuilder of Norfolk, Virginia, who likewise claimed he had established contact with the kidnap "gang." Curtis enlisted the aid of two respectable citizens of Norfolk, the Very Reverend Dean H. Dobson Peacock and Rear Admiral Guy Burrage, U.S.N. (retired), and through their offices was able to establish himself in the tolerance, if not the good graces, of Colonel Lindbergh. It was while he was searching the high seas for a boat on which Curtis assured him the kidnapers would be found that Colonel Lindbergh was advised, on May 12, that the body of his son had been found.

Curtis went to trial for obstructing justice, admitted his story was the product of imagination and was given a fine of \$1000 and one year's imprisonment, the jail sentence later being suspended.

In justice to the New Jersey police, it must be said that from the beginning they distrusted Curtis' story and urged Colonel Lindbergh to disregard it. Curtis' purpose in all this remains obscure, but it is possible he was actuated by the belief that the real kidnapers, knowing he was empowered to negotiate, might come to him and that he would consequently become the hero of the drama, to his own glorification and to the enhancement of his finances.

Discovery of the child's body, therefore, brought to an abrupt close such intrusions upon the main issue, stopped the scattered activities they made necessary and permitted a degree of concentration upon the principal problem. But four months had elapsed since the commission of the crime, and these four months had not brought the authorities appreciably nearer a solution.

In New York the police settled into a routine war of watchful waiting for the inevitable slip they were sure the kidnapер would make. They pinned their faith and hopes on the circulation of the ransom money.

Elsewhere the most important development was the intense,

microscopic study of the wood in the kidnap ladder, conducted by a dogged, thorough scientist in the forest laboratory of the Department of Agriculture. His name was Arthur Koehler.

### § 3

Bitter regret—even anger—was expressed by those police officials who had been forbidden to close in on the extortioner on the night of the ransom payment, when it became plain that he had escaped because no trap was set. Nevertheless, in view of later circumstances it is perhaps as well, in the interest of a more satisfactory solution of the case, that no hands were laid on him at that time. At most the authorities would have had a convincing case of extortion against him, but some of the most powerful, damning evidence relating to the major crimes—kidnapping and murder—would not have been available.

The most important evidence, with the possible exception of the ransom notes, was the three-section ladder by which the kidnaper obviously made his entrance into the nursery. The state police had muddled around with it, getting nowhere, although they displayed it to scores of individuals in the forlorn hope that some one of them might be able to identify it.

A duplicate ladder, meanwhile, was constructed, and tests were made which demonstrated that such a ladder would break—at exactly the same point the original ladder broke—under the strain of a man weighing a hundred and eighty pounds. This appeared to place a practical limitation upon the minimum weight of the kidnaper. Considering that the baby weighed thirty pounds, he could not have weighed less than a hundred and fifty pounds—or his descent would have been accomplished safely.

The original ladder was then made the subject of a few inconclusive tests at the police training school at Wilburtha and afterwards examined by the Bureau of Standards in Washington. Some detached pieces from it were, in May 1932, placed in the hands of Arthur Koehler, wood technologist of the Forest Service of the Department of Agriculture, and several months later the entire ladder was given over to him for exhaustive analysis.

During the following eighteen months, from early in 1933 until the autumn of 1934, the work of this man produced achievements in scientific detection unparalleled in the history

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of crime. The task he set for himself was enormous. He proposed to trace the lumber used in constructing the ladder from the very forest in which it was grown to the hands of the purchaser.

All over the world trees are cut down, sawed into lengths, cut into smaller pieces, distributed from forest to mill, to jobber, to lumber yard, to consumer, sometimes in large shipments, sometimes in inconsequential lots. To a layman—even to the average detective—the possibility of taking a few cubic inches of wood and reconstructing its entire history would seem the height of absurdity. But at the time of the kidnaping Arthur Koehler was not known to the world of criminology, nor had criminal jurisprudence taken cognizance of "wood experts." The testimony of handwriting experts, of toxicologists, of the medical profession, of chemists had long been accepted, but here was a branch of criminal detection wholly new and, as it developed, wholly effective.

Too much emphasis, therefore, cannot be given to the fact that it was *time* that provided the solution of the Lindbergh kidnaping—that it was the long weeks and months that ensued between the crime and the capture, months in which Koehler was pursuing his ceaseless investigations, that permitted the conclusive weaving of the net around the criminal.

Koehler began with a microscopic examination of the top, bottom and edges of the boards used as ladder rails. Some of these rails were of Douglas fir, others of North Carolina pine. Taking the latter (for it was with those rails that he had his triumphant success), he first studied markings made on them by the revolving knives of the mechanical plane with which they had been trimmed at some unknown lumber mill.

The kind and quality of the lumber limited its origin to the Eastern states, but there were more than fifteen hundred mills in which the wood might have been dressed.

Now various types of planing machines leave their individual stamp upon the wood they cut. As the board moves between the two cylinders from which the knives protrude each knife cuts a minute semicircular piece from the wood. If there are eight knives in the cutter and one is set higher or lower than the others, or if it has some defect, irregularity or nick, this defect will appear mathematically in every eighth depression carved by the revolving knives.

By observing these irregularities on the four sides of the

boards used in the kidnap ladder Koehler deduced that they had been planed by a machine with the following characteristics: it had eight knives in each of the "cutter heads" that dressed the top and bottom of the board; it had six knives in those that dressed the sides; and the board passed through the knives at the rate of 93 hundredths of an inch for each revolution of the top and bottom cylinders, and at the rate of 86 hundredths of an inch for each revolution of the side cutters. His problem, therefore, was to find a mill using such a machine and equipped with pulleys which would, by mathematical formula, produce that exact relationship.

From the two manufacturers of such planes he obtained a list of all planes answering those specifications then in use. There were only twenty-five. All but two of these were eliminated because they dressed no lumber of the type in the kidnap ladder. One more was counted out of the case for other technical reasons. At the final mill, that of the M. G. and J. J. Dorn Company, in McCormick, South Carolina, he found what he was looking for.

The Dorn Company, he discovered, was using a pulley which was not of standard size, but one with a diameter of  $11\frac{7}{16}$  inches, which accounted for the distinctly individualistic marks which would have been found on any board emerging from the machine. Koehler's inquiry disclosed that the pulley had not been installed before October 1, 1931, and thus narrowed the time at which the ladder rail might have been produced to the five months subsequent to that date and prior to the kidnaping.

The particular size of the stock thus dressed and shipped by the lumber company provided further limitations, and Koehler discovered that the company had shipped forty-five carloads of lumber, consisting in whole or in part of 1 by 4 North Carolina pine, to twenty-five different firms.

Now in addition to the telltale "ordinary" marks made by the planer Koehler had discovered an "extraordinary" mark caused by an irregularity in one of the knives, which was distinctly visible on the ladder rail. This mark would not occur in *all* shipments to the twenty-five firms whose names he was given, because knives are sharpened frequently, and such sharpening would have removed the cause of it.

Koehler's investigation, therefore, began to center upon the twenty-five firms which had received the specified shipments

from the Dorn Company. At the yards of none of them did he find any lumber corresponding exactly in markings to that of the ladder rail until he made a search, accompanied by assisting detectives, of the plant of the National Lumber & Millwork Company, of the Bronx, New York. There he found a sample showing exactly the same defect in planing and the periodic variations found in the ladder wood he was trying to match. He was therefore convinced he had found the yard from which the wood for the rails of the homemade ladder had been obtained. Approximately two thousand feet of this lumber had been purchased by the company, through the medium of Halligan and McClelland, late in November 1931.

At this point the investigation seemed to have reached a dead end. The National Lumber & Millwork Company had many customers, and nearly two years had elapsed since the shipment into its yards. All available records, however, were turned over to the police on the urging of Arthur Kochler that every customer of the firm be subjected to quiet but thorough investigation. For the moment his work was accomplished. He had gone as far as it was possible for him to go, and he had achieved results which the cleverest detectives had believed impossible.

Because of insinuations that much later were to gain public currency it is important to reflect that this achievement was recorded in November 1933, nearly a year before any arrest was made, thus putting any suggestion of manufactured evidence beyond the realm of possibility. Kochler had no knowledge of where the trail would lead when he set forth on his scientific quest.

The net result of his investigation in 1933, however, was to provide reaffirmation of the theory that the man who built the ladder, like the man who extorted the ransom, was a resident of the Bronx. It was in the Bronx that the first meeting between Jafsic and the extortioner took place. It was a Bronx taxicab driver who delivered one of the ransom notes to Dr Condon, and he had obtained it from a man who gave it to him in the Bronx. It was in a Bronx cemetery that the final chapter in the ransom negotiations was written. And now, with mathematical sureness, lumber out of which the kidnap ladder had been built had been traced to a Bronx lumber yard.

Before leaving this phase of the investigation certain other observations concerning the ladder, made by Kochler and others, should be recorded.

First of all four nail holes had been noted at one end of Rail 16 when the ladder was first photographed in March 1932. These holes were not there for use in construction of the ladder; hence the board must have been used somewhere before. In other words, here was proof that this particular board had at one time or another been nailed into another piece of wood, and for another purpose. Koehler carefully measured the distances between them and recorded his findings in his notes. Harold S. Betts, another employee of the federal Forest Service, also recorded at that time the presence of the nail holes, filing an official report that they were "made by old-fashioned cut nails" and that "two of the nail holes were at an angle." This was in May 1932, twenty-eight months before an arrest was made, again precluding the possibility that they were "manufactured evidence."

For the rest, Koehler observed that the recesses in which the ladder rungs fitted had been sawed with mathematically identical spacing, indicating that the side rails had been clamped together during the process. The saw marks, extending more deeply into the rails than was necessary, ranged from 35 to 37 thousandths of an inch in thickness, indicating use of a saw blade of those dimensions.

He had also noted that the recesses had been chiseled out with a  $\frac{3}{4}$ -inch chisel, which was the size of the chisel found in the Lindbergh grounds on the morning after the kidnaping.

The rungs of the ladder, matching in grain end to end and side to side, and each showing peculiar markings from some hand plane, had been cut, he decided, from one board of 1 by 6 ponderosa pine. This board was not a part of the shipment from the Dorn lumber company, nor was any part of the ladder except the two rails used in the first, or lowest, section. And Rail 16, the left-hand board of the top section, was alien to any other lumber in the ladder. It was quite possible, therefore, that the ladder builder had constructed the third, or top, section as an afterthought and, running short of lumber on hand, had seized upon a board already in use somewhere else.

Koehler's work, incidentally, was done with the sanction and authority of the United States government, and neither by the instruction nor at the expense of the State of New Jersey.

The second subject of intensive scrutiny by experts was the writing in the ransom notes. The first objective of the authori-

ties was to determine, beyond all possibility of a doubt, whether one person wrote all of them, including the one that was left on the nursery window sill. The most noted handwriting experts in the country agreed that they were the product of one man, who upon occasion had attempted to disguise his hand, but who had on other occasions let down his guard.

Errors in spelling and phraseology occurred repeatedly in the notes, and these errors, running like links from one letter to another, were convincing proof of their contention. But it was noted at the time that their author spelled certain difficult words, such as "hazardous", correctly, slipping up on such common words as "be" and "our." This indicated the use of a dictionary (and, because of the Germanic phrases, probably a German-English dictionary) by a man who felt himself competent in ordinary language, but insufficiently educated to express himself correctly in its complexities.

Late in May 1932 Captain Russell A. Snook, chief of the Identification Bureau of the New Jersey State Police, permitted Albert D. Osborn to make an analysis of the notes and from their contents to construct a test paragraph for dictation to any suspect who might come within the grasp of the law. Such dictated writings would be compared with the original ransom notes. Osborn realized that a comparison of the respective chirography alone might not carry convincing weight, first because he believed the ransom notes were in disguised writing, and second because a suspect was almost certain to attempt a disguise. His test paragraph, therefore, took into account much of the more glaring misspelling and contained a large number of words which had been habitually, it seemed, spelled incorrectly. No words which might give the suspect an idea of association with the kidnaping case, however, were included.

Among the words which went to make up the test paragraph, therefore, were "our", which the kidnaping customarily spelled "ouer"; "where", commonly written "were"; "later", spelled "latter" several times in the originals; "not", to which the writer usually added an "e"; and "anything" and "something", which had been written "anyding" and "someding."

The entire value of this test paragraph, of course, was predicated upon the assumption that the police, in their investigations of a suspect, would read the sentences to the prisoner as written, giving him no hint of proper or improper spelling.

Its purpose would have been nullified if the officers had dictated the identical misspellings of the ransom notes, and it is obviously ridiculous to believe that that was done in this case.

During the following two years Osborn examined more than three hundred writings taken from suspects, and in not a single instance did he find such similarities to the ransom notes as to justify even a fleeting suspicion that the writer had anything to do with the Lindbergh case.

The ladder, ransom notes and other physical clues were not so important, it was evident, for the tracing of the criminal as they would become, for successful prosecution, once he was captured. The greatest effort, on the other hand, obviously had to be expended on a method of tracing ransom bills wherever and whenever they might appear. Many of the police, including Lieutenant James J. Finn, of the New York department, were certain that through the ransom bills and only through them the extortioner eventually would be trapped.

The watching officials had not long to wait before modest quantities of the bills appeared in circulation. The first, a twenty-dollar bill, was discovered only two or three days after the ransom payment, deposited in the East River Savings Bank branch at Ninety-sixth Street and Amsterdam Avenue. It was traced to a David Marcus, who was unable to say where he got it. He was able to prove, however, that it reached his hands through legitimate channels.

Appearance of the first bill was followed by a trickle of bank notes from shops, restaurants and filling stations, generally along the most traveled lines, north and south, of the Bronx and Manhattan. No bills were found in foreign circulation, although, through an error, it was said at one time that a ransom note had appeared in Asia. The point farthest from New York City where any bill was picked up was Chicago, and that particular bill had come from a small town in Michigan. Much later several towns along the Mohawk and Cherry valleys in upstate New York reported the passage of ransom bills.

In 1933, when President Roosevelt called in all gold and gold notes, occurred an event that produced one of the most baffling phases of the investigation. On May 2 the Federal Reserve Bank received a deposit of \$2980 from an individual who signed his name "J. J. Faulkner", giving his address as 537 West 149th Street. The name and address were discov-

ered to be fictitious, and the bills deposited were from the ransom hoard. A false clue concerning a Jane Faulkner who had lived at that address more than ten years previously required investigation of a family which, although it had nothing to do with the ransom money, had lived through certain vicissitudes that provoked many suspicions. One member of a collateral branch had visited Canada under an assumed name. Another had committed suicide. Handwriting of a relative by marriage was regarded as "similar" to that of the ransom notes. Months elapsed before the many coincidences were reconciled and the family was completely exonerated, beyond the slightest possibility, of any complicity in the case.

During 1932 and 1933 the bills streamed into headquarters, one at a time, in sufficient quantities to enable the police to construct a more detailed map of the passer's operations. The lines, from point to point where such bills were found, radiated from the Bronx and seemed to add further confirmation to the theory that the chase should be centered in that section of New York.

Descriptions of the note passer, given by merchants, and particularly one by Mrs Cecile M. Barr, cashier of Loew's Sheridan Square Theater, where, on November 26, 1933, a five-dollar ransom bill had been passed, strikingly matched the description of the criminal given by Dr Condon. In nearly every case, too, the bill had been folded once lengthwise and twice in its width and had been thrown carelessly over the counter by the customer. In the process of unfolding the bill Mrs Barr had had ample opportunity to study the features of the man outside her wicket.

Lieutenant Finn, working with Special Agents Thomas H. Sisk and William F. Seery, of the Department of Justice, and Frank J. Wilson and Elmer L. Irey, laid special emphasis upon a thorough watch of all gasoline filling stations, arguing that possession of an automobile by the criminal was indicated and that it would be natural to assume that he would spend money for motor fuel. And he was correct in his theory. A suggestion made by others that every automobile license application from the Bronx bearing a German name should be scrutinized and the writing compared to the ransom notes received some consideration but was not carried out because it was felt that the small amount of writing on an application form would not provide a fair comparison.

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A reward of two dollars, offered by Colonel Lindbergh, and one of five dollars, offered by the New York Police Department, for the detection of any ransom bill undoubtedly stimulated some interest in the chase on the part of bank tellers, but even so, hundreds of such bills found their way into the treasury and were destroyed without being caught during their travels. Lists of the numbers on the notes, distributed in America and abroad, were lost or misplaced, and fevered interest had died down.

Part of Lieutenant Finn's program included urging all filling-station attendants to make a note, on the bill itself, of the license numbers of automobiles whose owners presented ten- or twenty-dollar bills. The habit thus formed by a certain Bronx gasoline salesman at last sprang the trap.

On September 18, 1934, a teller at the 125th Street branch of the Corn Exchange Bank and Trust Company informed Lieutenant Finn that a ransom bill had been found in a deposit from the Warner-Quinlan Company, a gasoline station. Finn, Federal Agent Sisk and Corporal William F. Horn, of the New Jersey State Police, went to the bank, examined the bill and discovered written on it what was apparently an automobile license number—4U-13-41. A checkup with the State Motor Vehicle License Bureau revealed that the license had been issued to a Richard Hauptmann, of 1279 East 222nd Street, the Bronx.

At once the officers felt that an arrest and solution of the crime were imminent. A description of the man who passed the bill at the Warner-Quinlan station corresponded almost exactly with the descriptions given by Mrs Barr, other merchants who had received ransom bills and the word picture given the authorities by Dr Condon. Furthermore, here was a suspect with a German name, living in the Bronx. The case looked airtight.

In order to avoid some fatal slip and, if possible, to capture the suspect with another ransom bill in his possession, arrangements were made to make the arrest while Hauptmann was away from his home. He was shadowed until late in the night of the eighteenth of September, but the heavy watch on his house was withdrawn for a few hours during the early morning of the nineteenth, with only a few picked men on guard.

At 8:55 A.M. that morning Hauptmann emerged from his house and took his car from the garage. He was trailed for a few miles by three automobiles, each containing a representa-

tive of the three agencies—federal, New Jersey and New York—interested in his capture. Hauptmann's machine was edged towards the curb. A large group of police officials participated in the arrest, and their first move was to search their prisoner, even before he was taken to the police station. A twenty-dollar ransom bill was found on his person.

Hauptmann's first hurried explanation of this bill was that it was the last of an accumulation of some \$300 in gold notes he had picked up here and there, fearing inflation. He made an apparent admission in the next breath that he had more of them at home, but when a search of his apartment revealed \$120 in gold coins he declared that this little hoard was what he had been referring to. While officers searched his house he was taken, after an hour and a half, to the Greenwich Street Police Station to undergo a long inquisition.

While Hauptmann was undergoing questioning a thorough search of his garage was made. There, secreted in extraordinary hiding places, part of it in holes hollowed out of a wooden block, the officers found \$14,600 in Lindbergh ransom money. Still later they found, written on a strip of wood in a closet, Dr Condon's telephone number—the *old* number of March 1932, not his new one—and his address. Hauptmann first said that he might have written those numbers down, but he didn't remember the act nor know why he had—if he had.

The prisoner was indicted at once in the Bronx for extortion, in order to hold him while awaiting determination in New Jersey as to whether the authorities of that state had sufficient evidence to lodge a charge of kidnaping and murder against him.

One of the first operations of the police was to dictate to him the passage written by Albert D. Osborn. Hauptmann spelled each of the "trick" words contained in the paragraph exactly as they had been spelled in the ransom notes, and the officials reached the inescapable conclusion that their prisoner was the author of them.

Hauptmann's explanation of his possession of the ransom bills was that they had been left in his care, together with other personal effects, by one Isidor Fisch, a friend and business associate since dead, and that they had been discovered by him wholly by accident and without knowledge that they were Lindbergh money. He clung to this explanation to the day of his death.

## § 4

The first scraps of information concerning the career of their prisoner appeared to confirm the belief of the police that they had captured a man of desperate criminal courage, of cunning resource and indomitable will. German born, he was illegally in the United States, a fugitive felon and jail breaker, described in the dossier of the Saxon police as "exceptionally sly and clever."

Hauptmann was born, November 26, 1899, in the little town of Kamenz, Germany, and in the spring of 1919, before he had reached his twentieth birthday, returned from the front as a "veteran" machine gunner. In the disrupted social atmosphere of postwar Germany he proceeded to make life burdensome for the police of Kamenz and neighboring towns, and for four years was in almost constant conflict with the authorities.

Convicted of committing three burglaries and one highway robbery—in which two women wheeling baby carriages had been threatened with death—Hauptmann was sentenced to serve imprisonment for five years and one week. In 1923 he was paroled, but three months after his release was rearrested as the author of a new series of burglaries. He escaped from the jail yard while exercising, before trial, and fled the country.

Hauptmann's dogged persistence thereafter in gaining admission to the United States without money, without passport and without right provided further illuminating information concerning his character. His first attempt failed after he had stowed away in the hold of the SS George Washington, only to be discovered before he could land. His second attempt, on the same ship, was blocked at the German pier, where he evaded arrest by leaping overboard and clinging to a pier until after the ship cleared. His third attempt was successful. He landed, disguised and with only a few cents in his pocket, and obtained immediate employment, first as a dishwasher in a Manhattan restaurant, later as a mechanic and eventually as a carpenter.

Hauptmann had the equivalent of an eight-year public-school education, plus two years in a trade school, where he learned the rudiments of carpentry and mechanics. As a boy (from his fourteenth to seventeenth year, when he was called into military action) he had worked as a carpenter's helper. In the war he had been slightly wounded and gassed.

In the United States he had no criminal record. Less than a year after his irregular entrance to the country he had met Anna Schoeffler, a restaurant waitress, a thrifty, hard-working woman who was even then saving several hundred dollars a year out of her small salary.

Carpenters' wages in the twenties were high and work was plentiful. In 1924 and 1925 he was able to average fifty dollars weekly and to save a considerable portion of this sum.

"I opened right in the beginning a bank account," he boasted.

In his physical and facial characteristics Hauptmann resembled every description given the police of the phantom figure of the two Bronx cemeteries and of the man who had passed ransom bills. He was a little more than five feet nine inches tall, more than ordinarily long legged and of athletic build. He had blue eyes and "muddy blond" hair, rather prominent cheekbones, slightly pointed chin and a triangular facial contour. He had the powerful hands of a manual worker. His walk and carriage suggested liteness and agility.

Reports of the prisoner's social life presented two pictures. He was popular in the modest German circles he frequented, particularly at Hunters Island, which afforded the outdoor recreation of which his group was fond. He seemed to be something of a leader in sports, could sail a canoe and enjoyed participating in impromptu musicales, in which he played a mandolin. He was not given to display nor to lavish living. On the other hand, seemingly a contradiction of the last attribute, he had a strong desire to live comfortably without working, to travel, to go on hunting trips and to possess certain luxuries not ordinarily afforded families in modest circumstances. He had paid nearly \$400, for example, for a radio and \$126 for a pair of field glasses. His hunting rifle cost \$56, and he was a subscriber to a Wall Street financial service at a cost of \$190.

The *hail-fellow-well-met* cloak that surrounded his true personality covered up a strong element of secretiveness and subtle scheming. He permitted no one, not even his wife, to know his business.

"I guess everyone has his secrets," he said on one occasion.

Hauptmann had two explanations for the wealth that had enabled him to live more than two years without working and for the ransom money dug up in his garage. His story was that both before and after March 1932 he had been an almost constant speculator in the stock market, operating, first on funds

saved by himself and his wife from their joint earnings, and second on funds provided by Isidor Fisch, with whom he was in partnership in a more or less nebulous fur business.

The ransom money, he asserted, came into his possession in December 1933, when Fisch went to Germany on a journey from which he never returned. The money was enclosed in a shoe box and reposed, unopened and untouched, on a shelf in the Hauptmanns' kitchen closet from the moment it was placed there late in 1933 until the middle of August 1934. At that time, as the result of a heavy rain, water had seeped into the closet and damaged the covering of the box. A broom handle, striking the cardboard by chance, disclosed the contents.

Hauptmann insisted he did not know this was ransom money, and made the strange, almost unbelievable assertion that he neither informed his wife of his discovery nor counted the money. Instead, he took it "in a pail" to his garage, where he dried it out. It was perhaps two weeks before he estimated how much wealth he had so mysteriously acquired.

Fisch had died early in 1934 in Leipzig, and the settlement of whatever estate he might have left had been the subject of communication for several months between Hauptmann, who described himself as "Isidor's best friend", and the dead man's family in Germany. In the correspondence, which entered into detail upon all the financial transactions between the two men, Hauptmann mentioned certain articles left in his care by Fisch.

"I still have two trunks belonging to Isidor," he wrote to Fisch's family, "in my apartment. There are no important things in them. But if you should be interested I will send the same to Germany. There are photographs, linen and other small things in them. Otherwise I will bring all of them to Germany for I plan to go over there next year with my family."

He failed to mention the "shoe box" and its surprising contents, and later insisted that he had completely forgotten his possession of it.

Tracing his financial operations with Fisch through a series of complicated accounts, Hauptmann said that his partner had died owing his \$7500, of which \$2000 had been advanced in cash. He therefore felt justified in dipping into the "shoe-box money", although he "intended" to save the remainder for the Fisch family, whenever they should send a representative to America to settle the estate.

With this involved explanation, extracted through long hours of inquisition, Hauptmann was forced to admit that his first statements to the police and federal officers, that the twenty-dollar ransom bill found on his person was the "last of about three hundred dollars" he had accumulated, were fabrications.

The authorities delved into the relationship between the prisoner and Fisch. Hauptmann's first story was that he had met Fisch in the summer of 1932, at the home of Mr and Mrs Karl Henkel. When he was faced with the necessity of explaining the receipt of money in May of that year, he "corrected" the story, saying that he first met Fisch at Hunters Island—not in the company of the Henkels—in February or March, and that within a few weeks he had invested \$600 in Fisch's fur business, the profits from which accounted for certain deposits in his bank account. The Henkels, meanwhile, in separate interviews with the police, had placed Hauptmann's first meeting with Fisch in their home, about the middle of July.

Hauptmann's early stories to the police contained the usual number of discrepancies that might be accounted for by slips of memory. On the other hand, they also contained glaring incongruities and statements which were contradictory to normal human behavior. The most significant of these related to the involved statements regarding his finances. He had told many friends—and repeated his story to the police—that he didn't have to work after April 2, 1932, because he was making money in the stock market. Analysis of his accounts proved that, far from making money, he had not only dissipated his own and his wife's savings, but he had sent other thousands of dollars chasing after the sums he had previously lost.

A thorough check of his finances showed that the Hauptmanns' total known assets, as of April 2, 1932, when the ransom was paid, were \$4,941.40, including a \$3750 mortgage, and that from that date until the day of Hauptmann's arrest their joint earnings amounted to exactly \$1,167.81. Yet Hauptmann had sustained a loss of \$5,728.63 in the stock market, had spent more than \$15,000 on living, travel, his wife's trip to Germany and other luxuries, and had, when arrested, total assets of \$40,529—including the money found in his garage.

The sudden affluence, which could not be accounted for either through involved transactions with Fisch or through stock-market operations, was powerful, though circumstantial, evi-

dence against him, particularly since this wealth was shown to have been acquired long before Hauptmann's alleged discovery of the money in Fisch's shoe box, in the autumn of 1934.

The dragging of Fisch's name into the case, however, created natural complications in the authorities' attempts to unravel the mystery. That such a man actually existed and was a friend of the prisoner was proved. That he actually did have some transactions in fur dealings with Hauptmann was also borne out by investigation and by the fact that he had left a considerable number of skins with Hauptmann. That he was financially able to supply thousands of dollars to Hauptmann for dealing in securities was decidedly open to question. A poor fur cutter, he lived in comparative poverty, in "the cheapest room" provided by his landlady. He had little clothing and no automobile.

Fisch's financial records, such as they were, would not lead to supportable belief that he would have been able to advance Hauptmann any large sums. He had sent occasional small amounts of money to his relatives in Germany and they in turn had had to "help him out" by sending him cash in 1932. He had borrowed several thousand dollars—the amount was disputed—from others to embark in a pie-baking business which went bankrupt, and had tried, unsuccessfully, to borrow more. On the eve of his last trip to Germany it had been Hauptmann who financed the journey, drawing \$2000 from his bank account to give to his friend.

From September 1932 through July 1933 there had been deposits, almost at monthly intervals, in Hauptmann's brokerage accounts. The largest such cash deposit was \$4500 and the smallest \$582.50, and the total was \$14,092.50. Each of these deposits was ascribed by Hauptmann to Fisch, and each of them had been in cash. The police asked themselves the natural question, whether Fisch's financial status was such as to permit such heavy disbursements, and the answer, provided by thorough investigation of the consumptive little fur cutter who had died in poverty, was an emphatic "No!"

In connection with the Hauptmann finances several other significant and incontrovertible facts were brought to light. On March 1, 1932, the *visible* Hauptmann assets, apart from such items as clothing, a mortgage and household furniture, consisted of \$203 in cash on deposit with the Central Savings

Bank, and fifty shares of Warner Brothers stock, worth \$100 at the then current prices. The depletion of their wealth through Hauptmann's stock-market operations previous to that date was shown in the fact that he paid up a margin call for \$74 only after repeated demands had been made upon him, and had begged for delay when he received the first notice in the summer of 1931. But his speculation, suspended during the winter of 1931-32, was resumed within a month after the ransom had been paid and without his having gone to work or received any substantial pay check.

Hauptmann met the inferences of this disclosure by the statement that, unknown to his wife, he had continuously, over a period of several years, kept an amount of cash varying from \$1000 to \$4300 in a trunk at home, this money for the most part consisting of extra earnings in carpentry work. He had not touched this hoard, he said, despite the broker's insistence on payment of additional margin.

The working arrangement between Hauptmann and his wife is worthy of attention, for it cast some additional light on the prisoner's character. In all the years Mrs Hauptmann had been working in America, first as a housemaid and later as a restaurant waitress, she had saved perhaps \$7000. This, together with what money Hauptmann claimed as his own savings, provided the operating funds with which the man speculated during the flush times of the late twenties. Hauptmann admitted, furthermore, that his wife's continued earnings, when both of them were working, were devoted to paying all the household expenses, while his own were reserved either for saving or investment. There were times when his wife objected to his stock-market operations, and on one particular occasion, when he wanted to withdraw \$2500 from their account for speculation in silver, her objections were particularly vigorous. Nevertheless she let him have his way and was later berated because she hadn't permitted him to withdraw the money from the bank quickly enough to make a profit.

After Hauptmann stopped work, in April 1932, his wife continued her labor, from ten to thirteen hours a day, in a combination bakery and restaurant. In December 1932 she decided she had "worked enough" and gave up her job.

While Mrs Hauptmann was engaged in her work her husband had become something of a mild playboy. He devoted considerable time to the "Hunters Island crowd", played cards

(for small stakes) many evenings, spent many morning hours in the company of Mrs Gerta Henkel, and the remainder of his time watching the board at his stockbroker's. Mrs Hauptmann, returning in 1932 from a trip to Germany financed by Hauptmann, was not pleased with this friendship, and for a time the relations between Henkels and Hauptmanns labored under a strain. That the situation did not destroy all amicable relations between the husband and wife, however, is shown in the fact that in November 1933 the Hauptmanns' child was born. The boy was christened Manfred, in honor of the great German military aviator, Baron Manfred Albrecht von Richthofen. Hauptmann appears to have had a sincere affection for his son.

Circumstances which Hauptmann was required to explain away, then, were these:

That he had stopped work on the day the ransom was paid and never thereafter resumed steady employment.

That he had professed to friends that he could live without working because he knew how to beat the stock market, whereas the truth was he was losing money.

That although he had practically no cash assets on April 1, 1932, in May and June 1932 he was able to pay \$526 for luxuries (radio and field glasses), give \$470 to Fisch for investment in the fur business, and send his wife abroad at an expense of \$706.

Meanwhile, from account and note books found in Hauptmann's house it had been ascertained that in many respects he was a methodical man, meticulous in details of personal accounting. For several years he had kept a general personal ledger in which his own and his wife's earnings had been recorded down to the last penny, and at the end of each year Hauptmann had figured his net worth. This system of accounting had come to an abrupt end in June 1931, but another account book, containing entries in 1932, 1933 and 1934, detailed his brokerage transactions. There were no records of his supposed fur dealings with Fisch, and not in any record could Hauptmann show he had entered sums totaling more than two thousand dollars as coming from Fisch for investment in the stock market.

Although Hauptmann asserted the fur business had been profitable and that he had made several thousand dollars through his association with Fisch, he was vague as to actual

profits and nowhere in his accounts showed receipts of more than a few hundred dollars from that source.

An analysis of his deposit slips, particularly in the Mount Vernon Trust Company (opened on June 1, 1932), disclosed an extraordinary amount of silver and coins deposited in 1932 and 1933. In that one bank alone Hauptmann had made two deposits in silver amounting to nearly four hundred dollars—whereas in preceding years the total of such deposits was less than twelve dollars. This, of course, gave rise to the question whether Hauptmann had attempted to convert ransom money into smaller change. If not, since he ran no mercantile or other business, how would he have accumulated comparatively large sums of silver?

The life of comfort and leisure embraced by the German carpenter after April 2, 1932, was marked by two hunting trips, one in Maine and the other in New Jersey. On one of these occasions he was accompanied by Karl Henkel, for whom he bought a fifty-six-dollar rifle. It also included a trip, by motor, to Florida, and carefree summer week ends at the Hunters Island which was so popular with his circle.

It was evident that only an expert detective-accountant could follow the maze of financial transactions in which the prisoner was engaged during the years after the kidnaping, and so William E. Frank, an agent of the Intelligence unit of the United States treasury was set to the task.

It was also evident that the prosecution, if prosecution there were to be, would have to look to other sources for circumstances which would link the prisoner to the ladder found at the scene of the crime. If it could be proved that Hauptmann built the ladder and wrote the ransom notes, constructive evidence that he planned and committed the kidnaping (and was hence responsible for the murder) was nine tenths complete.

Accordingly Arthur Koehler, whose amazing work already had traced lumber in the ladder to a Bronx source, was set to work again to provide further links in the chain of evidence. The entire Hauptmann apartment, attic and garage, now in possession of the New Jersey State Police, were given over to his thorough inspection, with the assistance and co-operation of the police.

In the attic, to which access was gained only through a cramped closet, a portion of one of the flooring boards was discovered to be missing. That it had been sawed away was evi-

dent because there was a little pile of sawdust still clinging to the lath and plaster. The landlord told the police that to his knowledge the floor had been complete, without a break, when the apartment was rented to Hauptmann.

Further proof that a piece of the floor board had been removed was found in the fact that the remaining piece projected beyond the joist at the point it had been sawed, leaving the floor in a condition such as no builder would have permitted. The flooring was of North Carolina pine.

The left-hand board of the top section of the kidnap ladder, later to become famous as Rail 16, was of North Carolina pine. Koehler removed it from the ladder and took it to the Hauptmann attic. His subsequent investigation brought to light the most vital evidence.

Rail 16 was not only the same type of wood as that of the remainder of the board in the attic, but its grain, annual rings and texture corresponded exactly. When placed in position on the joists from which the board was missing the *four nail holes at its end matched exactly four nail holes in the joist*. Since these nail holes were at varying distances apart from each other the mathematical chance of this being a coincidence was reduced to an absurdity. Furthermore, when the corresponding holes were placed together the side of Rail 16 ran flush, along its entire length, against the adjoining floor board. Two of the nail holes, furthermore, had been driven at an angle, and the angles of the holes in Rail 16 corresponded exactly with the angles of the holes in the joist. Finally, a small saw cut in the adjoining floor board corresponded with the sawed end of the rail.

There was one discrepancy and one only. When the rail was placed in the position of the missing board there was a gap of an inch or two between its end and the end of the board from which it was presumed to have been sawed. It was assumed, therefore, that the builder of the ladder had found the board too long and had shortened it to the required length. At a later date the defense were to make much of this seeming discrepancy.

Koehler's next investigation centered upon the tools found in Hauptmann's garage workshop. One side of the ladder rail had been planed to size, and each of the rungs had been hand-planed.

Few planes have perfect blades, and a cheap carpenter's plane is apt to have an embarrassing number of nicks in it

which manifestly prevent planing a wood surface to absolute smoothness. One plane found in Hauptmann's carpenter's chest was particularly bad in this respect, leaving distinctive, unmistakable though minute, ridges whenever it was used. Koehler took an impression of the plane marks on the kidnap ladder, then used Hauptmann's plane on another piece of wood and took the impression of the surface thus planed. The two impressions matched so perfectly that they required no magnifying glass to identify the telltale marks as identical. Furthermore a piece of wood used in making a bracket in the garage bore similar ridges.

Koehler returned to the National Lumber & Millwork Company in December 1934 and obtained another sample of lumber similar to that he had obtained before. Records of the lumber company showed that on December 29, 1931, Hauptmann had purchased \$9.32 worth of lumber at its yards.

Further search of the closet in which a police inspector found written on a strip of wood the telephone number and street address of Dr Condon disclosed other figures penciled on the panel of the door. The figures were believed to be the serial numbers of bank notes. They were not, however, the numbers of any ransom bill.

The explanations of the writing in his closet, as given to District Attorney Samuel J. Foley of the Bronx during his first, extrajudicial examination, became pertinent in the light of his later statements.

"Why did you write it [*Dr Condon's address*] on the board?" Foley asked Hauptmann. The prisoner's reply, recorded in the official minutes of the examination, was:

"I must have read it in the paper about the story. I was a little bit interest, and keep a little bit record of it, and maybe I was just on the closet and was reading the paper and put down the address."

"How did you come to put the telephone number on there?"

"I can't give you any explanation about the telephone number."

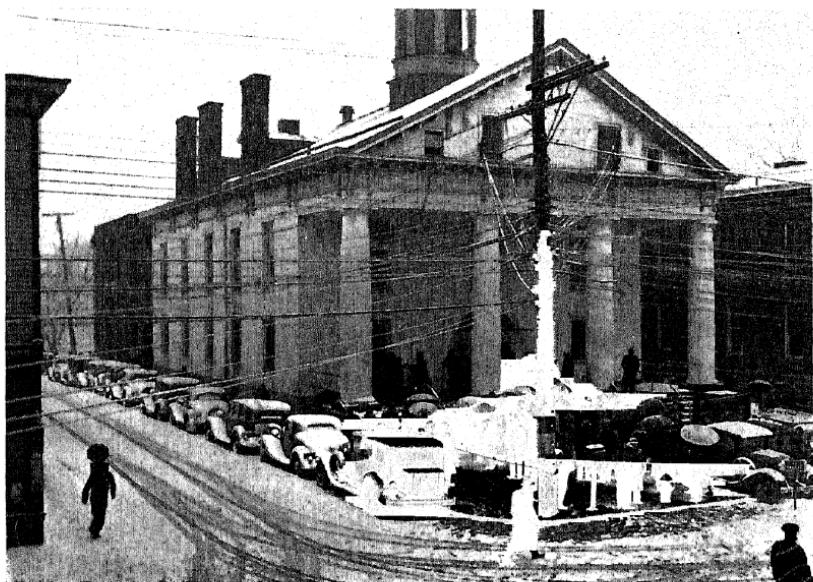
"Your only explanation for writing Doctor Condon's address and telephone number on this board is that you were probably reading the paper in the closet and you marked it down. Is that correct?"

"It is possible that a shelf or two shelfs in the closet, and after a while I put new papers always on the closet, and we



*Acme*

An air view of the Lindbergh estate near Hopewell, N. J., showing its naturally lonely surroundings, which aided the kidnaper.



*Acme*

The century-old Hunterdon County Courthouse, Flemington, N. J., enmeshed during the course of the trial in a skein of telegraph, cable, radio and telephone wires connected with every news agency in the world.



just got the paper where this case was in and I followed the story, of course, and I put the address on there."

Later Hauptmann made the involved explanation that he had a habit of jotting down, generally on the kitchen walls, dates, names or events of historical importance.

He admitted writing down the serial numbers of the bills on the closet door, saying that they were either five-hundred- or thousand-dollar bills (he couldn't remember which) that had been given to him by Fisch to buy stocks.

### § 5

Prosecution of Hauptmann in New York State on a charge of extortion would have brought about the prisoner's almost certain conviction, and if the authorities had desired to press other charges, such as gold hoarding, illegal entry and other minor offenses against the peace and dignity of the state and nation, he might have been kept behind the bars through the remainder of his natural life. The government had a convincing case against the man. But prosecution in the State of New Jersey on a kidnaping and murder charge was another matter.

New Jersey's kidnaping statute, stemming from archaic English common law, did not make the crime a felony nor punish it adequately. Murder, in the lack of direct evidence as to how, when and where it was committed, would be difficult to prove. Furthermore in order to try the prisoner New Jersey must first have possession of him, and this entailed the process of extradition.

To extradite Hauptmann the State of New Jersey had to prove, primarily, his presence at or near the scene of the crime. Had Hauptmann directed the crime from long distance, never going, himself, into New Jersey, the extradition attempt, at least on the charge of murder, would fail. It was necessary, therefore, to find witnesses who could say they saw Hauptmann in or near Hopewell. There was plenty of constructive evidence of his presence, contained in the ransom notes, the ladder and the conversations between "Cemetery John" and Dr Condon. The police searched through their files and rechecked the stories told to them by inhabitants of the Hopewell region.

Four witnesses were found whose stories coincided with the belief that Hauptmann had made the visitation to the Lind-

bergh estate. They were: Millard Whited, a gnarled, weather-beaten and illiterate Sourland hillbilly of no particular repute among his neighbors; Amandus Hochmuth, octogenarian resident of a road near the entrance to the Lindbergh estate; Benjamin Lupica, Princeton student; and Charles B. Rossiter, a salesman.

Whited insisted (repeating the story he had told the police within a few hours of the kidnaping) that he saw Hauptmann twice, late in February 1932, near the Lindbergh home.

The aged Hochmuth said that Hauptmann was the man he had seen, on March 1, driving a "dirty green car" with a ladder in it on the road leading to the Lindbergh estate.

Lupica, whose identification was wavering and uncertain, said he saw a man resembling Hauptmann driving an automobile with a ladder in it in the late afternoon of March 1, near the Lindbergh gatehouse.

Rossiter told the police he had seen Hauptmann on the Saturday evening before the kidnaping, standing at the rear of his car, near the Princeton airport.

Of these four witnesses, the State used only one in the extradition proceedings, principally because it wanted to save its weightier evidence for the actual trial and disliked revealing too much of its case. Whited, despite the knowledge that his veracity might be attacked, was chosen for this task.

In addition to the four New Jersey identifications the government had five New York identifications, partial or complete. Dr Condon, after a thorough and painstaking interview with Hauptmann, refused to make public his identification of the prisoner but privately informed the New Jersey authorities that Hauptmann was without question "Cemetery John." Again because they did not wish to disclose the full power of their case, the authorities failed to put him on the stand during the New York extradition proceedings.

Backing up Dr Condon's identification was that of Joseph Perrone, taxicab driver, who swore it was Hauptmann who, on March 12, 1932, gave him a dollar to take a note to the doctor.

Cecile Barr, cashier of Loew's Sheridan Square Theater, declared her belief that Hauptmann was the man who, on November 26, 1933, changed a five-dollar ransom bill at her window.

Colonel Lindbergh, his face and appearance disguised, had

listened to the prisoner calling out, "Hey, Doctor!" under police dictation, and declared it was the same voice he had heard calling those words over the wall of St Raymond's Cemetery on the night of the ransom payment.

Hildegard Alexander, whose testimony was withheld to provide a surprise for the defense, reported to the Bronx district attorney that some time in March she had seen Hauptmann "watching" Dr Condon from a distance while Condon was talking with the telegraph operator in a Bronx railroad station, and that two or three nights later she had seen the same man walking in Fordham Road.

Trial of Hauptmann in New Jersey provided an intricate legal problem for the prosecuting authorities. Statutes relating to kidnaping were, as has been said, inconclusive and without much weight of penalty attached. New Jersey did have, in common with nearly all states, a law that where a death occurs as the result of commission of a burglary, such killing is murder in the first degree. It was therefore decided to set up the theory that Charles A. Lindbergh, Jr's death resulted from Hauptmann's burglary—the breaking and entering into the Lindbergh home with intent to steal and commit a battery—in order that Bruno Richard Hauptmann might be brought to answer a capital charge.

A Hunterdon County grand jury, hearing only sufficient evidence to find probable cause, handed up a formal indictment, extremely brief in form but extraordinarily broad in scope. The indictment set forth:

The grand inquest for the State of New Jersey in and of the County of Hunterdon upon their respective oaths present that Bruno Richard Hauptmann on the first day of March, in the year of our Lord one thousand nine hundred and thirty-two, with force and arms, at the township of East Amwell, in the County of Hunterdon aforesaid, and within the jurisdiction of this court, did willfully, feloniously and of his malice aforethought, kill and murder Charles A. Lindbergh, Jr, contrary to the form of the statute in such case made and provided and against the peace of the State, the government and the dignity of the same.

Members of the prosecuting staff had no illusions regarding the ease or difficulty of obtaining a conviction that would be sustained by a higher court. First of all there was a question of jurisdiction. The kidnaping (or burglary) occurred in Hunterdon County, but did death occur there or in Mercer County,

where the body was found? Was the alleged burglary which resulted in the death complete immediately upon the criminal's leaving the Lindbergh house, or was it a continuing crime, still being carried out so long as the criminal was fleeing? Was burglary provable, since the window through which the burglar broke and entered was unlocked and found in its original state after the crime? Granted that death resulted from a burglary, was Hauptmann the burglar? Could his actual presence at the scene of the crime be proved? Some of the more complex legal questions had never before been answered in New Jersey courts.

The necessary steps to extradite Hauptmann from New York were accomplished speedily, but in strict accordance with the law and with proper protection of the prisoner's rights. The burden of proof in extradition cases rests with the accused, who must prove that he was not in the requisitioning state at the time of the crime.

New Jersey relied chiefly upon two witnesses to prove Hauptmann's presence in Hopewell. Through its handwriting expert, Albert S. Osborn, it showed that Hauptmann was the probable author of the ransom notes, the first of which was found in the Lindbergh nursery. Through Millard Whited it sought to place him physically near the Lindbergh home. Extradition was granted by Justice Ernest E. L. Hammer, sitting in the New York Supreme Court, with the following judicial comment:

On behalf of the respondent (the State of New Jersey) after testimony of Albert S. Osborn, handwriting expert, that in his opinion they were written by relator (Hauptmann), there were placed in evidence writings which in the record are Exhibits H, I, J, and K. Previously, Exhibit G was received with motion to strike out reserved unless connection was shown.

This also, in the opinion of the witness, Osborn, was written by the relator. Exhibit G is the note found in the Lindbergh home on March 1, 1932, upon the discovery of the kidnaping. It contains the demand for ransom.

Exhibit H asks: "Why did you ignore our letter which we left in the room?" Exhibit K states: "We will send you the sleeping-suit from the baby." Exhibit J asks: "Did you send the letter package to Mr. Lindbergh?" and states: "It contains the sleeping-suit from the baby."

The witness Millard Whited testified he lived in East Amwell township, New Jersey, about a mile from the Lindbergh estate and that between February 18 and 20, 1932, he saw the relator about a mile from

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the Lindberghs' driveway. He testified he again saw the relator between February 25 and 27. He identified the relator in court by leaving the witness box and placing his hand on the relator's shoulder.

The relator denied this testimony and also that he wrote Exhibits G, H, I, J, and K. The general credibility of the witness Whited was also attacked by two rebuttal witnesses.

Bearing in mind the rule that evidence should be construed liberally in favor of the demanding state, the Exhibits G, H, I, J, and K in my opinion, for the purpose of this hearing, constitute admissions of the presence of the relator in New Jersey at the time of the commission of the crime.

The testimony of the witness Whited may be weakened by the attack on his credibility, but, considered by the same rule, it adds to the weight of the admissions showing presence.

I do not regard this statement as setting forth a rule of evidence for the guidance of a trial court which later may consider the same evidence. My conclusion is that relator has not conclusively established that he was not in the demanding state at the time it is charged the crime was committed.

Writ dismissed and relator remanded to custody.

Attorney James M. Fawcett who had, up to this time, represented the prisoner's interests, carried an appeal to the New York Appellate Division, but his appeal was denied and on October 19, 1934, Hauptmann was taken across the New Jersey border and lodged in the Hunterdon County jail at Flemington.

Preliminary skirmishing between prosecution and defense was attended by some unusual circumstances. Attorney Fawcett was supplanted by a new chief counsel, Edward J. Reilly, a highly successful defender of criminal cases and described by irreverent news commentators as "the Bull of Brooklyn." Expenses of the trial, it appeared, had been assumed by a New York evening newspaper, in return for exclusive control over the actions and statements of Anna Schoeffler Hauptmann. Associated with Mr Reilly were C. Lloyd Fisher of Flemington, who worked ably and tirelessly in his client's behalf and who never wavered in his sincerity of belief that Hauptmann was innocent; Egbert Rosecrans, an unemotional but precise lawyer; and Frederick A. Pope, a country lawyer of bland self-assurance and a leaning towards technicalities.

The first move of this group was to demand of the prosecution a bill of particulars which would set forth in detail just

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what the State charged and intended to prove. Of twelve questions formally asked of the State, Justice Thomas W. Trenchard required the prosecution to answer only one, and that one concerned the method by which the Lindbergh child came to death. The prosecution answered, in the terms of the medical examiner's verdict, that "death was caused by a fracture of the skull due to external violence." The reply was scarcely more specific than the indictment, but the defense were forced to be content with it. It did not reveal (nor is there any indication that the prosecution itself had determined) any theory as to the actual manner in which the fatal wounds were inflicted. This avoidance of definite statement becomes significant when it is recalled that during the Hauptmann trial Attorney General David T. Wilentz set up two opposing theories, one in his opening address and one in his summation. In his first statement to the jury he said:

Then as he [Hauptmann] went out that window and down that ladder of his, the ladder broke. He had more weight going down than he had when he was going up. And down he went with that child. In the commission of this burglary *that child was instantaneously killed when it received that first blow*. It received a horrible fracture, the dimensions of which, when you hear about it, will convince you that death was instantaneous.

Nevertheless, in positive accents and with repetitious phrases which left no room for doubt as to his meaning, the attorney general waived away in his summation the theory he had pursued throughout the trial, and made these statements:

... this fellow took no chance on the child awakening. He crushed that child right in that room into insensibility. He smothered and choked that child right in that room. ... There was no cry left in the child. Did he use the chisel to crush the skull at the time or to knock it into insensibility? Is that a fair inference? What else was the chisel there for? To knock that child into insensibility right there in that room. Counsel wants to know why it didn't cry out. There is the answer for you.

The truth is, the prosecution did not know, nor was it ever to find out, whether the Lindbergh infant died from a blow delivered while he was asleep in the crib, or from a blow received when the ladder broke, or from a blow delivered subsequently, while the kidnapers were fleeing with his burden. The prosecution held strongly, however, to the belief that the blow was intentional and that the kidnapers had made no plans what

soever to take care of the child while awaiting payment of the ransom.

If the prosecution were hampered by a lack of factual evidence upon which to proceed surely, the defense were no less obstructed by the attitude of their client. From beginning to end Hauptmann resisted all efforts of his lawyers to find out more about him than he was willing to let them know. In a sense it was he who conducted the defense, and that defense may be summed up in five words—"I did not do it."

Hauptmann's attitude was characteristic. His silence was that of a man who feels he is superior to all other humans, cleverer than the police, a better thinker than the lawyers. He relied, therefore, upon his own force of intellect to escape the legal traps set for him, and viewed the work of his attorneys, with a certain cynical tolerance, as well-meant but not important activities. That he believed he would never be convicted or, if he were convicted, that he would never go to the electric chair cannot be questioned. He asked the world (and the jury) to believe "explanations" which were the last word in absurdity, and it never seemed to occur to him that other men and women had sufficient intelligence to detect their obvious falsity. He had never trusted another human being in his whole life, and he trusted no one now—not even his wife, and certainly not his counsel. He insisted upon being the general manager of his fate and upon having no assistants. The circumstantial evidence, other than possession of the ransom money, he ignored, and he was impatient with his attorneys' efforts to extract from him some reasonable explanation for it. Instead he seemed to concentrate his faculties upon evolving some mathematical solution of the financial maze in which he was trapped, to bulwark his story that every unaccounted-for dollar came to him through business association with Isidor Fisch. He spent week ends on his brokers' and bankers' statements, checking and rechecking amounts which he believed could be pinned on the dead man.

Because of speculation, both during and after the trial, upon the probable outcome of the case had Hauptman been served by a different type of lawyer—one more accustomed to dealing with the Hunterdon County mind—the position of Edward J. Reilly as chief counsel is worthy of some comment. His visits with his distinguished client were comparatively few. His "press" (because he was generous in words and promises) was

comparatively large. Altogether he struck an incongruous note in the whole proceedings. Florid, expansive and given to the type of histrionics that impresses the small, urban mind, he could not seem to realize that he was dealing with an entirely different kind of mentality. In Brooklyn he might berate and bully a police witness with impunity, because many a Brooklyn juror would enjoy seeing a policeman's importance deflated. But country folk have more respect for the police, whom they regard as a protective and not unkindly force. They were, in this case, decidedly unimpressed by the clothes, the manner or the arguments of Hauptmann's chief advocate. Hauptmann himself sensed the fact that Mr Reilly was not likely to get far against rural prejudices. Whatever few confidences he made were not to Reilly, but to C. Lloyd Fisher, the second in command. With the remainder of his counsel he had little to do and nothing to say. And as for those gentlemen, they busied themselves rather with the cold legal aspects of the case than with the human life involved.

Many voices were raised—after the trial—against the general atmosphere surrounding the court proceedings, and the press and public were roundly abused, the first because of the "unwarranted importance" it gave to the case, the second because of the maudlin or morbid emotions to which it gave expression. A few—but only a few—critics placed the blame squarely where it belonged, upon publicity-seeking lawyers and (in the last phases of the case) public officials seeking to capitalize on sensation. It is true that the public, hence the newspapers, were ravenous for news. It is also true that this was the "greatest" crime story of the century. But the bare recounting of the testimony given in the Hunterdon County courthouse would have provided sufficient sensation for the day. It required no embellishments, press "conferences", promises of "surprise witnesses", announcements of legal plans, extrajudicial statements and summations, out-of-court comment on the credibility of witnesses or declarations and affirmations of the prisoner's innocence. That, as far as the press was concerned, was gilding the lily, and how thick they gilded it!

It is also true that certain sections of the press, for circulation purposes, went far beyond the calm, judicial treatment of the case prescribed by ethical, objective reporting. No baseless rumor was too wild to print, no conjecture too fantastic

to publish. And, further magnifying the importance of the trial, an army of special writers, novelists, psychologists, amateur detectives and mystery-story authors was drafted to swell the volume of printed matter emanating from Flemington. Radio went still further. It retained well-known attorneys to broadcast, each day, their own opinions on the conduct and progress of the case, to discuss Hauptmann's chances for acquittal, to criticize the presentations by prosecution or defense, to comment on the credibility of witnesses and the conduct of the court.

Whether this atmosphere, described by defendants' counsel as "a circus maximus", constituted any serious invasion of Hauptmann's rights, however, may be questioned. Certainly any prejudice against the defendant arising out of the public's attitude towards the crime had been aroused and registered long before the actual trial. A change of venue would have accomplished nothing, for the case could have been taken to the town in New Jersey farthest away from Hunterdon County—or to the extreme limit of United States territory, if that had been legally possible—and the same atmosphere would have prevailed, with the same prejudices, if any existed, present. Nowhere in the country would it have been possible to find a panel of prospective jurors who had neither read copiously about the case nor formed some opinion.

So much for the before-trial atmosphere. The more important question is: Could a Hunterdon County jury fail to be influenced by public manifestations in the courtroom, and how well were its members insulated against outside influences and opinion?

There was, it would seem, ample ground for protest by the defendant against conditions for which the Court was in no way to blame. The courtroom was overcrowded, insufferably hot, close and humid. The spectators, making a holiday out of their visits to Flemington, murmured, muttered, gasped and laughed aloud upon numerous occasions. The important testimony of key witnesses was punctuated by the rattle of correspondents' paper and the rush of messenger boys for the exits, giving exceptional emphasis (whether warranted or not) to many of the damaging points. When the jury was not in the courtroom every endeavor was made to isolate it. But in walking from the Union Hotel, where it was quartered, to the courthouse, the jury passed through large crowds and could not

avoid hearing considerable comment. In the hotel dining room, where its meals were served three times a day, the jury was separated from other diners only by screens, and again might overhear the conversation of persons who were discussing the case.

Conditions such as those outlined were impossible to remedy because of the limitations on Hunterdon County's physical equipment for the handling of so important a case. But did they seriously affect the defendant's right to a fair and impartial trial?

Offsetting the possibility of adverse influence arising from such conditions, the attitude, manner and conduct of the Court itself was beyond reproach or criticism. Justice Thomas W. Trenchard, a jurist wise in years, meticulous in legal form, humane in spirit, ever held before the minds of the jurors the necessity for impartial consideration and the shutting of their ears and eyes to any outside manifestation likely to influence their judgment. He rebuked in strong terms those who disturbed the orderly procedure of the court, and in fact constituted himself a shield between the jury and the outer world.

The correctness of Justice Trenchard's position throughout the long trial cannot be successfully challenged, and the fact that never, in his long career on the bench, has he been reversed in any case involving capital punishment is a warrant for his soundness. In the opinion of many lawyers, in fact, if he erred at all it was on the side of leniency towards the defendant. Time after time he permitted repetitious or immaterial testimony in Hauptmann's behalf to enter the record rather than to cling rigidly to rules which might have excluded it. He was alert in guarding against the misfortune of a mistrial and permitted attorneys for the defense many liberties for which they might have been severely admonished by a less tolerant judge.

Not all of the courtroom manifestations were caused by the hysteria of the spectators. The defense on three distinct occasions contributed to a disturbance of the orderly process. Hauptmann, seated with his guards at the attorneys' rail, said, "You're a liar," to the witness, Joseph Perrone, in a tone easily heard by those on the front press benches. Again the defendant rose to his feet dramatically and shouted, "Mister, stop that lying!" at another witness, Federal Agent Thomas Sisk, who was on the stand at the time. On the following day Mrs Anna

Hauptmann shouted an accusation of "lying" at Mrs Ella Achenbach and had to be sternly admonished by Justice Trenchard.

The very conclusion of the trial was marked by an uproar when a person in clerical garb, later identified as an eccentric preacher, shouted some unintelligible phrases at Justice Trenchard beginning, "A man has confessed." His voice was muffled immediately under the hands of the bailiffs. None of the jurors, however, had heard the words, and they were instructed, of course, to ignore the outburst.

Justice Trenchard's charge to the jury provoked a final controversy, particularly among laymen who failed to realize that New Jersey's laws give judges wide discretion in the matter of commenting upon testimony and the credibility of witnesses. It is true that his charge, in many other states, would have been reversible error, but the New Jersey procedure, again following the English law, gives the jurist much latitude.

In their appeal the defense set forth that ". . . the Court in its charge to the jury by its queries and comments on evidence portrayed emphatic approval of the State's theories and witnesses and thereby impaired a free and unbiased verdict." It also asserted that ". . . the Court . . . was argumentative to a degree which made comments on evidence characteristically an act of advocacy."

Among the jurist's remarks cited by the defense to bear out its contentions were these:

It is argued that Doctor Condon's testimony is inherently improbable and should be in part rejected by you, but you will observe that his testimony is corroborated in large part by several witnesses whose credibility has not been attacked in any manner whatsoever.

. . . upon the whole, is there any doubt in your mind as to the reliability of Doctor Condon's testimony?

If you find that the defendant was the man to whom the ransom money was delivered, as a result of the directions in the ransom notes, bearing symbols like those on the original ransom note, the question is pertinent: Was not the defendant the man who left the ransom note on the window sill of the nursery, and who took the child from its crib, after opening the closed window?

It is argued by defendant's counsel that the kidnaping and murder was done by a gang and not by the defendant, and that the defendant was in nowise concerned therein. The argument was to the effect that it was done by a gang, with the help or connivance of some one or more servants of the Lindbergh or Morrow households. Now do you believe

that? Is there any evidence in this case whatsoever to support any such conclusion?

Does it not appear that many thousands of dollars of ransom bills were found in his garage, hidden in the walls or under the floor, that others were found on his person when he was arrested, and others passed by him from time to time?

The defendant says that these ransom bills, moneys, were left with him by one Fisch, a man now dead. Do you believe that?

Do you believe his [*Hauptmann's*] testimony that the money was left with him in a shoe box, and that it rested on the top shelf in his closet for several months?

That the ladder was there seems to be unquestioned. If it was not there for the purpose of reaching the nursery window, for what purpose was it there?

There is evidence from which you may conclude, if you see fit, that the defendant built the ladder, although he denies it. Does not the evidence satisfy you that at least a part of the wood from which the ladder was built came out of the flooring of the attic of the defendant?

. . . you should consider the testimony of Mr Hochmuth along with that of other witnesses. . . . He testified that on the forenoon of that day, March 1, 1932, he saw the defendant. . . . This testimony, if true, is highly significant. Do you think that there is any reason, on the whole, to doubt the truth of the old man's testimony? May he not well and easily have remembered the circumstance, in view of the fact that that very night the child was carried away?

There was apparently little question in Justice Trenchard's mind as to the proper answers to the queries he propounded for the jury's consideration. But he was careful to point out that it was the duty of the jury, not himself, to provide the answers. What type of mind, then, do we find in the twelve *Hauptmann* jurors?

### § 6

It is generally agreed by observers that the *Hauptmann* jury was as high in intelligence as the average American jury. It is also admitted that it had, collectively, a sense not only of its own importance, but of its duty to judge the case on its merits and upon the evidence presented. It was not likely to be actuated by lynch spirit, nor was it apt to be unduly impressed by the magnitude of some of the principal figures in the case, such as Colonel Lindbergh. It possessed, moreover, the native common sense that would see clearly through legal trickery and not be swayed by emotion nor befogged by sophistry.

Preliminary questioning of the talesmen centered upon what

they might have absorbed through newspaper reports and radio comment between the time of Hauptmann's arrest and the day of the trial opening. They were asked particularly whether they had been influenced to an opinion from hearing the radio expressions of Walter Winchell, Broadway's most widely known columnist, and whether they had received and been influenced by a satirical pamphlet dealing with a fictional kidnaping case, which had been sent through the mails to every prospective juror. Typical of questions asked of the talesmen—and their answers—were those directed to Charles Walton, Sr, who was the first juror to take his seat and was accordingly foreman of the jury.

*Q. [By Mr Hauck]* I understood you to answer Mr Fisher in the beginning of his examination as to whether or not you had formed an opinion, that you said, "Not exactly." *A.* Well, not to any extent, not more than anyone else would read the paper.

*Q.* In other words, even though you might have been affected in some small manner, you could be guided by the evidence and by law as charged to you by the court solely? *A.* Yes.

Walton was a machinist, fifty-five years old, whose stability was indicated by the fact that he had worked for the same concern for twenty-five years. In his youth he had been a semi-professional baseball player. He was now the father of three grown children. His deportment was grave and studious. He paid the closest attention to evidence, and his eyes seldom left the witness before him.

Mrs Rosie Pill, a widow, fifty-five years old, with two grown sons and two grandchildren, was the second juror accepted. She was uneasy under the spotlight of publicity, but strongly impressed with the solemnity of her duty. Her attention wandered at times, diverted by some incident in the courtroom, but it was always brought back, as though she were startled by the enormity of daydreaming.

Mrs Verna Snyder, Juror No. 3, was the wife of a cross-roads blacksmith. Her motherliness was testified to in the fact that she had adopted and was rearing a child. In the humid and stupifying atmosphere of afternoon sessions, after a heavy lunch, Mrs Snyder seemed to have occasional difficulty in bending her mind to the technical evidence, much of which was highly repetitious, but she gave every indication of honest effort to consider every point carefully.

Charles F. Snyder, No. 4, was not related to Mrs Snyder.

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His forty years had been spent on a farm, and he was perhaps typical of the New Jersey rural native, with a shrewd outlook on life.

Mrs Ethel Stockton, the fifth juror selected, was an unusual type of jurywoman. Thirty-two years old, she had had several years of experience as a stenographer in the office of a former district attorney, during which she had assimilated considerable knowledge of the law. She was therefore not only above average intelligence but had an added asset of legal experience.

Elmer Smith, completing the first half of the jury, was a forty-two-year-old salesman for an insurance firm, somewhat retiring in disposition. He was the father of a three-year-old son.

Robert Cravatt, unmarried at twenty-eight, was Juror No. 7. He had considerable cultural attainment and was educational supervisor at a Civilian Conservation Camp. Youngest of the jurors, he appeared from first to last to approach the problem with more emotion, or perhaps sympathy, than several of his fellows.

Philip Hockenbury, father of a grown family, was a railroad employee in a minor capacity. He was fifty-eight, with a record behind him for steady, conscientious work throughout his life.

George Voorhees, at fifty-four, was of a type similar to Charles Snyder. He was the father of three young children. His attention to the case was patient and painstaking.

Mrs May F. Brelsford, who was thirty-eight, was another unusual woman to find a place on a murder jury. A woman of high intelligence, she was interested in civic affairs, an indefatigable worker for welfare and a leader in her community.

Liscom Case, a retired carpenter sixty years old, was the dean of the jury, whose faculties were keen but whose health gave the Court considerable worry. Mr Case suffered from a heart ailment, and there were times when grave concern was felt for his ability to survive the tremendous strain involved in the trial. He paid, however, assiduous attention to the testimony and was particularly fascinated by expert evidence associated in any way with his own trade—carpentering.

Howard V. Biggs, an unemployed bookkeeper who was able to follow the exposition of Hauptmann's financial and banking operations without difficulty, completed the jury. He was fifty-five years old.

The average age of the jurors, therefore, was a little more than forty-five years, and there was maturity of thought, plus experience of divers valuable kinds, to aid in bringing a unanimous decision. There was not on this jury, as on so many, any single dominating character to move the others to his judgment. There seemed to be no group or faction within it, and it is beyond belief that the verdict, as finally given, did not represent solely individual opinion.

The taking of testimony began on January 3, 1935, after Attorney General Wilentz had outlined the theories to be established by the State. Motion for a mistrial because of the "impassioned appeal" of the attorney general was denied by Justice Trenchard.

Since there will be found in this book (as fully as possible in view of the fact that more than a million words of evidence were heard in the trial) a review of all salient testimony, it is not essential here to elaborate on all the points laid down by the prosecution and the counterevidence presented by the defense. From the outset of the trial, however, it was noticeable even to laymen that whereas the State appeared to have a well-knit and carefully conceived plan of attack, the defense was relying in large part upon rumor, conjecture and innuendo to divert the jury's attentions from the main issues. The defense, in fact, presented not one theory but a dozen, all conflicting. Fisch was the guilty man. Disloyal servants in the Lindbergh household were the guilty persons. Violet Sharpe was at the Yonkers ferry with a blanket. Later Violet Sharpe was at the Forty-second Street ferry with a baby. Two men, driving a station wagon, were the potential kidnapers. A man and a woman, driving a Ford, might have been guilty. "Red" Johnson, Betty Gow's friend, was guilty, and why didn't the State bring him back from Europe? Oliver Whateley, the Lindbergh butler, had "guilty knowledge." Dr Condon was not to be believed. The Curtis case was resurrected and made to serve its temporary purpose of "proving" that a gang committed the crime.

Under the hammering of the chief defense counsel many of the State witnesses might have been forgiven if they had become provoked and angered. Few of them did. Colonel Lindbergh himself maintained a cool and easy composure throughout his examination, although many of the questions to which he was forced to reply must have been extremely irritating.

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The most dramatic episode of that examination was his identification of the prisoner's voice as that of the ransom negotiator.

*Q. [By Mr Wilentz]* On the night of April 2, 1932, when you were in the vicinity of St Raymond's Cemetery, and prior to delivering the money to Doctor Condon, and you heard a voice hollering, "Hey, Doctor!" in some foreign voice, I think, as you referred to it—since that time have you heard the same voice? *A.* That was Hauptmann's voice.

Under ordinary circumstances identification of a voice, particularly one heard only for a fleeting moment, would be susceptible to many doubts, and countless persons reading of this identification in cold type would be justified in questioning its value. On the other hand, those who heard Hauptmann's rather shrill, metallic voice—a voice that seemed to be strained through a metal funnel—would not be likely to forget it. It should also be considered that at the time of this episode Colonel Lindbergh was straining his every sense to record every item of information he could get about the man who was negotiating with Dr Condon and who, he believed, would return his child.

Colonel Lindbergh's reply to Mr Reilly in reference to Dr Condon was classic. Mr Reilly had inquired whether the colonel had ever considered the possibility that Dr Condon was himself the "master mind" who had written the advertisements as well as the replies that were published in the *Home News*. To this Colonel Lindbergh responded, and there was contempt in his voice: "I think that is inconceivable from any practical standpoint."

Mr Reilly was on surer ground, both from his own experience as a trial lawyer and from the actual facts in the case, when he attacked certain police officials for what he termed their "blundering and bungling" methods of investigating the crime. The testimony of fingerprint "experts", their failure to make casts of the footprint below the nursery window, the careless manner in which the all-important ladder was bandied about from hand to hand, police refusal to co-operate with other agencies—of undeniable facts such as these the defense made great capital. The inconclusive testimony of Detective Nuncio de Gaetano is an example. He had seen the footprint, which looked as though it might have been made with a stocking shoe, but the nearest he had come to measuring it was

to bend over it and hold his flashlight parallel to it. The width he guessed by measuring it against the palm of his hand, and his "measurements", he had to admit, were purely guesswork!

Now in dealing with police officers, many of whom are not overburdened with intelligence, or with servants, or with underlings, Mr Reilly reached the top of his Brooklyn form. With Betty Gow he was infinitely sarcastic, designing only to plant in the jury's collective mind the suspicion that the young woman's telephone conversation with "Red" Johnson on the evening of March 1 was a "signal that the coast is clear" and that because Miss Gow failed to visit the nursery for nearly two hours she was either derelict in her duty or part and parcel of the "gang conspiracy." Miss Gow met these assaults with rare dignity.

In considering the evidence of Dr John F. Condon, who, perhaps more than any man with the exception of Arthur Koehler, convinced the Hunterdon County jury of the guilt of the defendant, many things other than a bald repetition of his testimony need to be taken into account. As the key figure in a cause célèbre, more has been written about this man than any other figure connected with the case excepting, of course, Hauptmann himself. He has been described as eccentric, contradictory and abnormal.

He was a man of seventy-four years at the time of the trial. He was given to long-winded discourses, and it was quite evident that he was proud of his ability, at his age, to engage in verbal fencing with the astute defense counsel. The public has often wondered what induced Condon to enter into the negotiations—and sometimes to wonder whether the negotiations were genuine. The answer, psychologically, lies in the mentality and personality of Jafsie. Probably no other man *would* have entered into such negotiations, under such circumstances, at such personal disregard for such elements as his own safety and the possibility of tragedy at the end. He was patriotic and sentimental to a high degree. "Mother", "country", "flag", "honor", "home" were words that would arouse deep emotion in him.

There were times when he was too garrulous, perhaps, for his own good. He gave obviously incorrect information to newspapermen, upon occasions, in the naïve belief that he was fooling them. Nevertheless when he reached the witness stand he gave a clear, if not concise, story of the events after the

kidnapping, which could be shaken only in the most minor of details. There were moments of confusion when it appeared that he was about to become distressingly contradictory. But when the train of his mind was put back on the proper track he became alertly accurate again.

Reilly conducted the most searching cross-examination of Dr Condon in his endeavor to bring out contradictory testimony. There were times, too, when he aroused Dr Condon first to exasperation and then to that over-loquacity which is always dangerous in a witness. He made Dr Condon say that he first became interested in the case because he wanted to help "Red" Johnson, the sailor at whom suspicion had first been directed, and whom he believed to be innocent. Why he should have gone out of his way to do this was never satisfactorily explained, and his statement had the effect of destroying his earlier testimony, in which he said he entered the case for the purpose of doing what he could to restore the Lindbergh child to his mother's arms.

The doctor slipped, on one occasion, when he was asked when he knew Johnson had telephoned to his friend, Betty Gow. "I knew that the night of the kidnapping," Condon said. What he meant to say, as was brought out in subsequent redirect examination, was that he knew (after entering the case) that Johnson had telephoned Betty and that the telephone call had come on the night of the kidnapping. He also became confused over the question as to whether he saw the symbols on the note to Colonel Lindbergh before he arrived at Hopewell, and seemed to contradict himself in that matter. Again the confusion had to be cleared up on redirect examination.

If there were any respectable doubts regarding Dr Condon's honesty of purpose, however, the testimony of later witnesses, particularly that of Colonel Breckinridge, who "lived" with the doctor during the negotiations, must have gone far towards clearing them up in the minds of the jury. It was obvious that Dr Condon took no steps whatsoever without sanction, authorization and approval by Colonel Lindbergh and his advisers.

The testimony of Mrs Myra Condon Hacker, daughter of Dr Condon, left one unsolved mystery. Who was the messenger who, on April 2, 1932, delivered into her hands, at the Condon home, the note that sent Dr Condon and Colonel Lindbergh out to deliver the ransom money to the extortioner? Mrs Hacker's best description of the messenger was that he

was "five feet six or seven, very slim and very dark." He was not Isidor Fisch. She never saw the man again, nor a picture of him. Why did not this man present himself? Or why was he not found?

The array of handwriting experts presented by the State was overwhelming. It is worthy of note (to escape from the official record for the moment) that six handwriting experts volunteered to examine the ransom notes and the conceded writings of Bruno Richard Hauptmann for the defense. After their examination of the documents, in Trenton, five of these experts withdrew from the case. They gave no reasons for their disappearance, but their action may be said to have spoken for itself.

The defendant's manner and attitude on the stand were amazing. He appeared actually to welcome the opportunity to testify, and when he did testify under the guidance of Mr Reilly (now soft spoken and fatherly) it was with cool confidence and sureness of his position. It was evident from the stress Hauptmann placed upon his financial operations that he believed the only thing he had to explain away was the receipt of money approximating the \$50,000 to ransom a baby who was already in his grave. As he went over and over his brokerage accounts he pulled a yellow pencil from his pocket, and not a tremor in his hand was discernible as he checked off item after item.

He did make unconscious slips. For example, he said "Ju-  
rope" instead of "Europe", a circumstance which Attorney General Wilentz promptly noted, aligning it beside the fact that the writer of the ransom notes habitually wrote a "j" instead of a "y." Referring to his projected trip to Germany, he said the trip "was planned for a year already", which at once lent itself to comparison with the kidnaper's statement that the case was "prepared for a year already."

It was evident to the defendant that in order to explain heavy deposits in banks and brokerage houses in April, May and June of 1932, to explain the purchase of a four-hundred-dollar radio, to explain the purchase of a pair of field glasses for \$126, to explain the financing of his wife's trip to Germany in June 1932, at a cost of more than seven hundred dollars, he would have to move his acquaintanceship with Isidor Fisch back from July or August of that year to early spring. Now he had said, and his wife had said, and Mr and Mrs

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Karl Henkel had said, that Fisch was introduced to Hauptmann in the Henkel home either in July or August. He now recalled, fortuitously, that he had met Fisch at Hunters Island in the latter part of March or the early part of April, and that it was from Fisch that he received various sums of money for investment—from Fisch and from a certain trunk at home wherein he was hiding money from his wife. And the only support he had for this story came from his friend, Gerta Henkel (with whom he “took coffee” on pleasant mornings in the Henkel home), who recalled that although she did introduce the two men, “Isidor Fisch told her afterwards” they had been “kidding” her and that they had met previously!

The defense fought vigorously to meet the cold challenge thrown to them by William E. Frank, agent of the Intelligence unit of the United States treasury. Frank had shown that on April 2 the cash and stock assets of the Hauptmann family were \$303.90. From that date until the date of his arrest, on September 19, 1934, “new money” coming into the Hauptmann possession, as shown by bank deposits, payments to brokerage houses, payment for a mortgage, money found in the garage and money spent for luxuries and necessities, amounted to \$44,486.<sup>1</sup>

Examination of the defendant left many questions unanswered. If the story he told about finding the hoard of gold notes in Fisch’s shoe box was true, was it normal behavior to take this money to the garage and never to count it for two weeks? Was it normal behavior to hide the secret in his bosom and not to cry out to his wife, “Anna, see what I have found?” Was he telling the truth when he excused himself for hiding

<sup>1</sup>A breakdown of Hauptmann’s financial transactions between the date of the payment of the ransom money, on April 2, 1932, until the day of his arrest, as issued by the Bureau of Internal Revenue, and based upon William E. Frank’s investigations, was as follows:

### ASSETS AS OF SEPTEMBER 19, 1934

|                                      |                 |
|--------------------------------------|-----------------|
| Mortgages                            | \$7,500.00      |
| Stock and brokerage account balances | 8,781.12        |
| Mount Vernon Trust Co. stock         | 89.25           |
| Cash, Central Savings Bank           | 2,578.00        |
| Cash, Manhattan Savings Institution  | 260.65          |
| Investments in furs                  | 5,500.00        |
| 400 Hudson seal skins (in house)     | 1,100.00        |
| Gold coins (in house)                | 120.00          |
| Ransom bills in garage               | 14,600.00       |
| <br>Total assets                     | <br>\$40,529.02 |

money from his wife by saying that he "wanted to surprise her someday"—that he was going to build her a house? Was he telling the truth when he said he didn't deposit the money in a bank "because his wife might find it out" or because she "might find the bankbook", when, over a period of years, he insisted, he had successfully hidden \$4000 in a trunk about which she never knew a thing? Was he telling the truth when he said that after taking "twelve or fifteen bills" from the ransom hoard he intended to keep the remainder and give it to Isidor Fisch's brother when that brother came to America? What value could be attached to his explanation of secreting the money from his wife in the question, "Why should I make my wife excited about it"?

One of the most damning single bits of evidence presented related to the spelling of the word "boad" (for "boat") in an account book kept by the defendant in 1931. The attorney general discovered the word on the very morning on which he was to cross-examine Hauptmann. The discovery was as much a surprise to Mr Wilentz as it was to Hauptmann.

"How do you spell 'boat'?" Wilentz asked in a matter-of-fact tone.

EXPENDITURES AFTER APRIL 2, 1932

|  |             |
|--|-------------|
| Stock market losses                                | \$5,728.63  |
| Rent   | 1,500.00    |
| Food, etc.   | 3,465.00    |
| Clothes  | 1,360.00    |
| Radio  | 396.00      |
| Canoe  | 109.00      |
| Binoculars   | 126.00      |
| Mrs Hauptmann's trip to Germany                    | 706.00      |
| Life insurance premiums                            | 494.00      |
| Magazine of Wall Street                            | 190.00      |
| Hunting trips                                      | 150.00      |
| Hunting rifle                                      | .56.00      |
| Sent to Hauptmann's mother in Germany              | 150.00      |
| Settlement of auto accident damages                | 230.00      |
| Furniture  | 250.00      |
| Medical expenses                                   | 170.00      |
| Trip to Florida                                    | 100.00      |
| Auto upkeep  | 350.00      |
| <br>Total expenditures                             | \$15,530.63 |
| Grand total  | 56,059.65   |
| Assets as of April 2, 1932                         | 4,941.40    |
| Known earnings of Hauptmanns (between above dates) | 1,167.81    |
| <br>Total  | \$6,109.21  |
| Unaccounted for, believed to be ransom money       | \$49,950.44 |

"B-o-a-t," Hauptmann replied.

"Then why did you spell it here 'b-o-a-d'?" Wilentz shouted.

The witness was flustered. The book must be old, he thought, eight years old, and "after eight years" one makes an improvement in one's writing and spelling. But the word was thus written only a few months before the ransom notes themselves.

Another glaring discrepancy comes to mind at this time in relation to Hauptmann's explanation of why he spent the "twelve or fifteen bills" from the ransom money. He used the money, he said, to pay current household bills, to buy shoes and groceries. Then why, if he needed money, didn't he use instead the money he was shown to have been depositing, at the same time, in a New York bank? There was no apparent answer to that question.

Considering next the testimony of that unfortunate woman, Mrs Anna Hauptmann, it seems to be agreed that on the stand in Flemington she told the truth to the best of her ability. sorrowful as it may seem to those who have sympathy for the underdog, the truth she told may have gone far towards discrediting the major point of her husband's story—that he had found the Lindbergh ransom money in the shoe box deposited with him by Isidor Fisch with instructions to "keep it in a tight place."

Mrs Hauptmann was a thrifty, hard-working German Hausfrau, implicitly faithful to her husband. She had the German desire for cleanliness. Her home was well kept, well dusted, well cleaned. That she never, in all of her trips to the broom closet to get the cleaning utensils she used, saw the package on the upper shelf was well-nigh unbelievable—if the package ever had any actual existence. Had she seen the package, it is quite possible she might not have opened it, for she appears to have been an unimaginative woman, not given to curiosity, and in any event not one to question any of her husband's mysterious affairs. Nevertheless she testified that never once, from December, when Fisch left the United States, until September of the following year, when her husband was arrested, did she see any strange box reposing on the broom-closet shelf.

Mr Justice Trenchard was forced to comment on this fact in his charge to the jury.

Having treated, thus briefly, with the major defense witnesses, it may be well to return for a moment to one of the outstanding phases of the State's case—the work of Arthur

Koehler, who, in the words of the attorney general, would "run this ladder right into Hauptmann."

### § 7

The use of an expert on woods, in criminal jurisprudence, was in a sense a novelty. Arthur Koehler, the United States government's technological expert, had testified in civil cases involving controversies over grades and classifications of woods and had been called as a consultant in tracing the origin of lumber or fragments of lumber. Once he had testified to the nature of wood that had been used in the making of a bomb. He was a master of science and had written some fifty-two treatises, articles, pamphlets and books dealing with wood. A vigorous objection to his appearance as an "expert", during which the defense, through Attorney Frederick A. Pope, refused to recognize that there was "any such animal as a wood expert", failed when Justice Trenchard declared him so qualified.

From the moment the ladder was turned over to him, in 1932, until the conclusion of the Hauptmann trial Koehler had made it his sole occupation to trace the wood with which the so-called "kidnap ladder" had been built. When he came into court at Flemington he was better prepared, from a scientific standpoint, to present his case than the most expert of the handwriting experts. His charts, diagrams, photographs and practical illustrations and demonstrations were complete. His manner of presentation was quiet but convincing. He gave the appearance of a man who knew what he was about at every step of the way, and not once did he become confused, whether on direct, cross- or rebuttal examination. While the jury had fidgeted and stirred uneasily during the testimony of the handwriting experts, to the witness Koehler it gave all the rapt attention due one of the most fascinating detective stories ever unfolded in a courtroom or in fiction.

Koehler's testimony, extensively reviewed elsewhere in this book, need not be repeated here. But the contrast between this witness's certainty and scientific knowledge, and the non-technical, nonscientific evidence presented by the "practicable lumbermen" produced by the defense could not but have had a tremendous effect upon the jury.

But here again the unusual circumstances of the building of

that ladder leave room for continued speculation. Koehler's testimony would convince, it would seem, the most skeptical that one of the ladder rails (the famous Rail 16) was originally part of a board that came from the Hauptmann attic. Yet why did Hauptmann go to this attic, saw part of a board off, plane it down and make it into one of the ladder rails? Was wood unobtainable? Was it a last-minute action when he found, or believed, that his ladder was too short to reach the Lindbergh nursery window? Was it because he hesitated to go forth to a lumber yard and buy one piece of lumber of the dimensions he needed? Only a few days before the first of the year, 1932, he had purchased more than nine dollars' worth of lumber from the National Millwork & Lumber Company, in the Bronx.

For that matter, why did Hauptmann do many of the things he is represented as doing? Why did he write (if he did) the address and telephone number of Dr Condon on the inside of a dark closet? He admitted in the Bronx that he had done that ("maybe a little bit interest in the case") and then had hedged about it on the stand in Flemington. Why did he write down the serial numbers of two large bills on a panel of a door in the same closet? That he readily admitted. But he said he could not remember whether they were five-hundred-dollar bills or thousand-dollar bills—bills that were given to him by (you guessed it!) Isidor Fisch.

Let us turn now to some of the defense alibi witnesses. They were not, on the whole, a credible lot, but the manner of their gathering was in itself unusual.

Early in the case Attorney Reilly had blandly announced that he would have eighty or more witnesses from New York and other cities who would furnish a complete and convincing alibi for his client. As the defense hearings rolled around the prospective number of witnesses suffered a brisk decline. Mr Reilly did his best to show a cheerful demeanor. At the noon recesses he would scrawl the word "witness" on a dozen sheets of paper and distribute these on the vacant witness chairs to ensure a place for witnesses who never came. And at night he and his colleagues would broadcast messages over the radio to "all who know anything about the Lindbergh case" to come forward and assist in the exoneration of Bruno Richard Hauptmann.

The radio appeal was in part successful. At least it brought

some witnesses, but of a character that led Hauptmann himself to say, *sotto voce*, after one of them left the stand, "Vere are dey getting dese vitnesses? Dey're hurting me!" Nevertheless the case for the defense had to be kept going. There were times when the proceedings appeared about to come to an abrupt halt because there were no more witnesses in sight. Mr Justice Trenchard upon one occasion, when Mr Reilly pleaded for an adjournment because he had been disappointed in the absence of some "important" witnesses, admonished counsel to have his people in court or "something unpleasant is likely to happen."

So the witnesses finally flocked to Flemington and went on the stand—many of them without preparation, many of them to give testimony for which even the defense was unprepared. There was Elvert Carlstrom, who said he was in Fredericksen's bakery on the night of March 1, 1932, and that he saw Hauptmann there—and who was afterwards proved never to have left Dunellen, New Jersey, where he was employed, on that night. There was Louis Kiss, who went to the Bronx to deliver "two pints whisky" he had made himself, and who also saw Hauptmann in the restaurant. And Kiss was shown not to have delivered the "two pints whisky" until some ten days later. Then there was August Van Henke, who "saw" Hauptmann walking a police dog near the restaurant on that night—and who was shown to have run a speak-easy and to have had two aliases. There was Benjamin Heier, who said he saw Isidor Fisch jump over the wall at St Raymond's Cemetery on the night of April 2, 1932—and who was later shown to have been in an automobile accident eight miles away at the very hour he asserted he had watched that interesting incident. (He was later indicted for perjury.) And there was one Peter H. Sommer, who told a story of having seen Violet Sharpe on a trolley car in Manhattan on the night of March 1, with a child in her arms, and who became so confused in his story that the courtroom was in an uproar. (And he was shown to be a professional witness who had testified for a price and who had once changed his testimony when the price was not forthcoming.) Finally there was Lou Harding, who testified to seeing an automobile with a ladder in it—not Hauptmann's car—and who blandly corrected the attorney general's suggestion that he had once been convicted of an assault on a woman by stating that the charge was "carnal abuse"!

There were times when Mr Reilly made semi-apologies for this motley array of witnesses, including one whose sanity had been questioned seven times, by declarations that the defense was hampered by lack of funds, quite as though respectable people would not testify unless the defense had funds with which to pay them.

There were three dates in the calendar which Bruno Richard Hauptmann had to meet. The first was March 1, 1932, the day of the kidnaping. The second was April 2, 1932, the date of the ransom payment in St Raymond's Cemetery. The third was November 26, 1933, the date on which he was charged with having passed a five-dollar ransom bill through the wicket of the cashier's cage at Loew's Sheridan Square Theater. The first he met through the alibi witnesses who swore they saw him in Fredericksen's bakery drinking coffee on that night. The second he met by recalling that it was "the first Saturday in the month" and, as such, was the evening on which he habitually held an amateur "musical" with his friend Kloeppenburg, at his home. The third occurred on his birthday, and he produced witnesses who said they were present in his home all evening and that he did not leave the house.

Of the evidence linking Bruno Richard Hauptmann to specific appearances before and after the crime, that relating to his supposed visit on the evening of November 26 to the Sheridan Square Theater always has seemed to many persons, including the writer, the most tenuous and susceptible to attack.

True, a ransom bill was passed at that theater by a person who resembled Hauptmann. The bill itself was recovered and Mrs Cecile Barr's description of the man who tossed it through her window was in line with other descriptions of the ransom-bill passer, furnished by various shopkeepers and by Jafsic. Nevertheless there was considerable evidence to place Hauptmann in his own home that evening, as against the uncorroborated evidence of the cashier.

Of the fact that the defendant's birthday fell on that date there is no doubt. That there was a little birthday celebration at the Hauptmann apartment there was considerable evidence. The only answer to the discrepancy—if Hauptmann did not go to Sheridan Square that night—seems to be the possibility that the bill had been in circulation for several days and that it reached the hands of the cashier through some innocent person, wrongly identified as Hauptmann.

On the other hand Mrs Maria Mueller, who asserted in Flemington that she and Paul Vetterle had been guests at the Hauptmann home on that evening, had told the police in the Bronx, before the extradition proceedings, that there was no gathering and no birthday observance on November 26. The prosecution was thus able to leave the inference with the jury that if Mrs Mueller visited the Hauptmanns that day, she went to her own home late in the afternoon or early in the evening. The cross-examination by Attorney General Wilentz on this point is pertinent:

Q. You have discussed this with your husband since, haven't you? *A.*  
Well, I don't know. [!]

Q. Didn't your husband say to you that you came home at six o'clock that night? *A.* My husband . . . was not in when I came home.

Q. But on that particular night, Mrs Mueller, is it not a fact that your husband was home about six o'clock and that you came home and met him in there and served him his meal? *A.* Oh no.

Q. And you were asked: "Did you have a party up there that Sunday?"  
And your answer was: "No." Right? *A.* Yes.

Q. And then you were asked: "Was there anybody up there?" And your answer was, "No." *A.* Yes, but I told Captain Apple in the Bronx right after I came out, after Mr Breslin had examined me, I said to Captain Apple, "I was thinking it over, it just comes to my mind that Isidor Fisch and Paul Vetterle . . . , I told Captain Apple.

Q. And do you remember also saying that nobody drove you home that night; do you remember that? *A.* Oh, that is a lie.

Had Mrs Gerta Henkel not been sent to the witness stand, the omission would have been too obvious. She was needed to substantiate Hauptmann's story that he had met Isidor Fisch several months previous to the alleged introduction in the Henkel home. But by her flippant manner under cross-examination, her replies—"you said it", "yop", "uh-huh"—and her vagueness as to how and when Fisch had informed her he already knew Hauptmann before her "introduction", she destroyed whatever value her testimony might have had.

The defense attempt to match the coldly scientific testimony of Arthur Koehler by producing "practical lumbermen" such as Charles J. De Bisschop, easily trapped into confusion and contradiction, was pathetic and served only to emphasize the thoroughness of Koehler's preparation and presentation.

De Bisschop had no knowledge of wood technology beyond

that which might have been possessed by an average nurseryman. He contradicted himself as to whether a pine tree has more knots at the top or the bottom. He could "match" woods—but only by appearance, not by texture or grain. He said it would be impossible for any man, however expert, to identify two boards as having been sawed from the same piece of wood, and then turned around and tried to do that "impossible" feat himself. He knew nothing about the identification of machine or hand-plane marks on wood and took refuge in stolid dumbness when technical questions were presented to him. The prosecution had only to return Arthur Koehler to the stand in a brief rebuttal to tear his evidence to shreds.

So throughout the trial the contrast in caliber and character of State and defense witnesses continued, and this contrast must have left a deep impression, conscious or otherwise, on the minds of the jury.

Why, the question has frequently been asked by those who completely disregard the evidence and believe either that Hauptmann was innocent or that he had accomplices, why didn't he "crack"? How was he able to withstand the terrific cross-examination by David Wilentz? Why did he profess his innocence to the end? The answer may perhaps be found in the defendant's reaction to the blasting line of interrogation into his personality followed by the attorney general during the examination. Mr Wilentz had had the counsel and advice of some noted psychiatrists. It may even be supposed that he hoped, and perhaps believed, that he would be able to "break" the prisoner. Hence—

- Q. You think you are a big shot, don't you? *A.* No, should I cry?
- Q. You think you are bigger than anybody, don't you? *A.* No, but I know I am innocent.
- Q. You are the man that has the will power, that is what you know, isn't it? *A.* No.
- Q. You wouldn't tell if they murdered you, would you? *A.* No.
- Q. No. Will power is everything with you, isn't it? *A.* No, it is—I feel innocent and I am innocent and that gives me the power to stand up.
- Q. Lying when you swear to God that you will tell the truth. Telling lies doesn't mean anything. *A.* Stop that!
- Q. Didn't you swear to untruths in the Bronx courthouse? *A.* Stop that!

Hauptmann was not unintelligent. From beginning to end, however, he manifested an abnormal contempt for the intelligence of others. He expected that any story he told, however absurd, would be accepted because he, Hauptmann, told it. He felt that he was a superior man—a superman. A touch, perhaps, of megalomania.

There is another possibility to be explored: the difference between Bruno Hauptmann, the criminal, and Richard Hauptmann, the family man. There are two pictures here. Bruno Hauptmann was the secretive man, furtively concealing his affairs from his wife, engaging in undercover fur transactions with his friend Fisch, hiding money in his garage, hiding a pistol in a block of wood, endeavoring with clever hypocrisy to "straighten" the affairs of Fisch after Isidor's death. He was totally devoid of compassion. He was bold, ruthless and without fear. The same man who could embark on the perilous venture of robbing the Lindbergh home of its most cherished possession could also talk for more than an hour with Dr Condon on a park bench; he could carry through his crime to the climax of extortion when he knew his victim was dead; he could also make the fatal error of passing too many ransom bills too openly. The other picture, Richard Hauptmann, the family man, was that of the father of a child conceived, if you please, after the Lindbergh kidnaping. He loved this son. Richard Hauptmann was a leader in the little German circle to which he was attached, popular with his fellows, sportsman, hail-fellow-well-met, though something of a swaggerer, proud of those things that set him a little above his friends—his expensive radio, his vacation trips, his little luxuries.

Bruno and Richard Hauptmann were two distinct individuals. Bruno might well have committed the crime, but Richard would stubbornly insist, "I did not do it—I am innocent!" If that theory is tenable, then the self-possession of Hauptmann on the stand and his subsequent declarations that he would never go to the electric chair are explained.

When Richard Hauptmann, in Flemington, was faced with the lies told by Bruno Hauptmann in the Bronx he was forced to take refuge in failure to remember: "I can't remember all them questions—I was too excited." When he was faced with Bruno's criminal record in Germany: "I can't remember that one! . . . I have an impression you are making up a big story there."

The prisoner at all times appeared to be more concerned over his financial accounts than over the discrepancies in the "explanations" he made to the Bronx authorities after his arrest. He never bothered to contradict or explain why he told the arresting officers that the twenty-dollar ransom bill found in his wallet was the "last of about three hundred dollars worth of gold certificates" he had collected over a long period of time because he feared inflation. The list of discrepancies characterized by Mr Wilentz as "lies, lies, lies", and ignored by the defense, was long. It began with the defendant's statement that he was "on parole" after his offenses in Germany and when he arrived in this country. Instead he was an escaped prisoner. It continued with his denials of previous crimes of which the prosecution had a complete and official record. On each occasion when police investigators uncovered a new hoard of money he insisted he had no more. His declaration that the word "signature" had been dictated to him was a provable untruth. His statement that he met Fisch at Hunters Island in March or early April (and what were they doing at a distinctly summer rendezvous in the cold early spring?) was open to grave doubt. His insistence that he was making money through his stock-market operations was an easily demonstrable lie—from his own books! The unusually large sums in silver he deposited in various banks could not be explained by the bald statement that either Hauptmann or the bank tellers continually made errors.

Would a jury, then, be inclined to accept the defendant's unsupported word that he had received ten or fifteen thousand dollars from Fisch, a man shown to be a poverty-stricken bankrupt, when that defendant's own books showed only the receipt of \$2000 from Fisch? Those facts should be borne in mind. The silent witnesses, Hauptmann's accounts, showed the payment of \$2000 by Fisch. And when Fisch went home to Germany, to die, Hauptmann gave him \$2000. That account seems to balance.

Similarly the entire story about the trunk in which Hauptmann asserted he kept as much as forty-three hundred dollars in 1931 is open to question. Did Mrs Hauptmann never go to this trunk (as she never visited the top shelf of the broom closet), although in it she kept material necessary to the conduct of her household? If the money actually reposed in the

trunk at the time his brokers were calling for more margin, why did Hauptmann never dip into it? Oh, he was planning to give his wife a glad surprise "someday"! He had bank accounts and brokerage accounts. He wanted to conceal the money from his wife. But he didn't put the money into a bank because the bank would have given him a bankbook, and although his wife never found the forty-three-hundred-dollar hoard, she would have found the bankbook. Undoubtedly!

On February 13, 1935, after twenty-nine days of testimony and three days of summation and charge, the case was given into the hands of the jury.

Justice Trenchard's charge to the jury was vigorous and, because of the suggestions and inferences it appeared to contain, subject to much criticism on the part of many persons poorly informed on New Jersey law. It is true that in many states, where judges are forbidden to comment on the credibility of witnesses or on the testimony, confining themselves wholly to the law, such a charge would have constituted reversible error. But Justice Trenchard was on sure ground because, as in the English law from which New Jersey law stems, a judge may guide the jury by pointing to significant testimony, separating the wheat from the chaff. So we find him saying:

"There is evidence from which you may conclude, if you see fit, that the person who carried away the child entered the nursery . . . by means of a ladder. . . .

"It is argued that Doctor Condon's testimony is inherently improbable and should be in part rejected by you, but you will observe that his testimony is corroborated in large part by several witnesses whose credibility has not been impeached in any manner whatsoever. . . . Upon the whole, is there any doubt in your mind as to the reliability of Doctor Condon's testimony? . . .

"It is argued by defendant's counsel that the kidnaping and murder was done by a gang . . . with the help or connivance of some one or more servants of the Lindbergh or Morrow households. Now do you believe that? Is there any evidence in this case whatsoever to support any such conclusion? . . .

"Numerous experts in handwriting have testified, after exhaustive examination of the ransom letters and comparison

with the genuine writings of the defendant, that the defendant, Hauptmann, wrote every one of the ransom notes, and Mr Osborn, Sr said that that conclusion was irresistible, unanswerable and overwhelming. . . .

"Now does it not appear that many of the ransom bills were traced to the possession of the defendant? Does it not appear that many thousands of dollars of ransom bills were found in his garage, hidden in the walls or under the floor? . . .

"The defendant says that these ransom bills, moneys, were left him by one Fisch, a man now dead. Do you believe that? . . .

"His wife, as I recall it, said that she never saw the [*Fisch*] box; and I do not recall that any witness except the defendant testified that they ever saw the shoe box there. . . .

"You . . . should consider the testimony of Mr Hochmuth. . . . Do you think there is any reason, upon the whole, to doubt the truth of the old man's testimony? . . .

"That the ladder was there seems to be unquestioned. If it was not there for the purpose of reaching that nursery window, for what purpose was it there? . . . Does not the evidence satisfy you that at least a part of the wood from which the ladder was built came out of the flooring of the attic of the defendant?"

The jury retired at 11:23 A.M. to consider its verdict. The prisoner was remanded to the custody of the sheriff and taken to his cell. The courtroom was cleared of all spectators other than holders of red tickets—the press, undersheriffs, deputies, bailiffs, attorneys and officers of the court. For an hour, at side bar, counsel for the defense argued their exceptions to Justice Trenchard's charge and for his failure to charge as requested.

Darkness, hastened by the murky atmosphere of a February afternoon, closed in rapidly around the courthouse, and the scene within became weird, unearthly. Correspondents, imprisoned, like the jury, until a conclusion was reached, wrote, played games, smoked furiously. The smoke created a fog that made it impossible to distinguish faces across the room. The floor was littered inches deep with torn and crumpled copy paper. Justice Trenchard ordered food sent to the jurors, although under the strict New Jersey law he could have withheld all refreshment from them until they had reached a verdict or a definite decision that a verdict was impossible.

From the jury room there came no word until the middle of the afternoon, when a magnifying glass was requisitioned. From this it was deduced that the handwriting and wood exhibits were being closely examined. At six o'clock more food was sent to them. Three hours later Sheriff John Curtiss told several newspaper correspondents that he looked for a verdict within a short time. Justice Trenchard had remained in chambers with the understanding that he would go to his home for the night if the jury failed to agree before ten o'clock and that if a verdict were reached after that hour it was to be delivered, sealed, the following morning.

At ten o'clock a report spread through the courthouse, by grapevine, that the jury was ready to report. The crowds outside the courthouse, cast into relief by the dazzling floodlights of motion-picture operators, were packed so densely that it was impossible to move. There was shouting and hysterical singing. A stone, thrown for no apparent reason, shattered a window over the portico. State police fought to keep a lane through the mob by which accredited messengers could pass from the court to the press headquarters in the Union Hotel across the street.

Meanwhile the lights in the courtroom were extinguished. Correspondents wondered if that was a signal—of something. They lighted matches to continue their scribbling. The lights flashed on once more, and state troopers inspected every admission card, escorting out every person who could not produce one. Shortly before ten-thirty o'clock a press association, operating through a short-wave radio concealed in a brief case inside the courtroom, sent an erroneous "flash" that Hauptmann was convicted and that the jury had recommended mercy. For twenty minutes the report went uncontradicted, while other correspondents, watching the vacant jury box, worried and wondered.

At ten-thirty the jury came and at 10:44 P.M. the now manacled prisoner rose between his two guards to confront the jury. Foreman Charles Walton, Sr in a shaking voice delivered the verdict: "We, the jury, find the defendant, Bruno Richard Hauptmann, guilty of murder in the first degree." In turn the other eleven jurors repeated the formula.

Only a slight stiffening of the figure and a tightened grip on the hand of his "favorite" guard, Hovey Low, betrayed

the emotional reaction of the prisoner. But when, after his immediate sentencing to death, his guards rushed rather than walked him from the room, his eyes were unseeing, and he stumbled over the leg of a table. Not once did he glance at the loyal Anna Hauptmann, whose red-rimmed eyes flamed from a chalk-white facial mask.

Now it can be said that never once was there a doubt in the jury room of Hauptmann's guilt. The only question was one of degree. This was largely circumstantial evidence. Death or life imprisonment? The preponderance of argument was for the supreme penalty.

That night, and all through the night, the prisoner showed the first indication of weakening. He was awake, sobbing violently. For the first time the superconfidence in himself that had enabled him to face his accusers was shattered.

### § 8

Immediately upon the removal of Hauptmann to a death cell in the state prison at Trenton his attorneys set in motion the legal machinery required to perfect an appeal to the higher courts. Simultaneously they embarked upon a public campaign designed to convince the nation that the case against their client was "framed" by the police and to raise a large defense fund.

From an emotional and financial standpoint their drive was successful. At a "rally" in a casino in Yorkville, center of New York's German-American colony, an aroused audience booed, hissed and jeered the names of Wilentz and Colonel Lindbergh, cheered the name of Hauptmann and poured thousands of dollars into baskets and boxes passed by the ushers. The rally was staged by an "American" Nazi organization, which at that time needed an issue for purposes of proselytizing.

Similar rallies took place in the Bronx, in Brooklyn and in Passaic, New Jersey, and the money continued to pour in. Hundreds of dollars also came in the form of checks drawn to the order of Bruno Richard Hauptmann. In such cases the gift generally was not inspired by a feeling of faith in the convicted man, but by a desire to have his autograph, written as endorsement on the back of the check. The initial drive was so successful that Mrs Hauptmann's managers decided to send her on a

barnstorming tour through the Middle West. Her experiences in Chicago, however, together with certain differences of opinion among her advisers, brought her back to New York before conclusion of this tour. How much money the defense actually collected never has been revealed.

Hauptmann had not been in Trenton prison a week before the quarrel between his counsel, which had been seething all through the latter days of the trial, burst into the open. A definite break between Edward J. Reilly and C. Lloyd Fisher was reported on February 18. The flare-up was forgotten for a few days, although the embattled attorneys manifested no co-operation from that time henceforward. Eventually Reilly sued Hauptmann for a twenty-five-thousand-dollar fee and attempted to tie up the defense funds, then under the trusteeship of C. Lloyd Fisher. The Brooklyn lawyer was defeated on each point.

On June 20 the Court of Errors and Appeals heard Hauptmann's appeal. In his brief the defendant, now represented by the three "country" lawyers, Fisher, Egbert Rosecrans and Frederick A. Pope, set forth the following reasons for demanding a reversal of judgment:

" . . . the Court permitted the attorney general to overstep the bounds of propriety and fairness which should characterize the conduct of such an officer, and the excerpts show that the summation contained expressions of personal opinion as to the guilt of the defendant, comments upon facts not in evidence, improper insinuations and a general appeal to prejudice by inflammatory argument. . . .

"The State indulged in legal gymnastics to spell out its theory that the death of the child ensued from the commission of a statutory burglary. The circumstantial evidence as to burglary was highly technical, the charge being that the house was entered by night with intent to steal a sleeping garment of no proven value and with intent to commit a battery upon a two-year-old infant. . . . There was no proof of any jimmying of the window or other evidence that the window had actually been the means of entry. . . .

"There was no testimony as to flight from the scene, and in fact the entire evidence in the case was entirely circumstantial and weak. This latter statement is born out by the fact that the attorney general in his summation entirely changed the State's theory as to the place of death and the instrumentality used.

The openings of State's counsel were predicated upon an entirely different theory.

"This new theory, injected into the case for the first time in the summation of the attorney general, involved a willful, deliberate and premeditated killing in all its essentials. The defendant had no further right to cross-examine and introduce evidence to combat this new theory."

In general the brief held that Mr Wilentz' summation violated the common law and constitutional rights of the defendant, in that he "went beyond the limits of nonpartisanship and impartiality and attacked the defendant and the case with the virulence and venom of the nearly barbaric advocate who tilted in the lists for the case of his principal."

The brief recited twenty-seven instances of "inflammatory" or "unfair" statements by the attorney general in the course of his summation, and Mr Wilentz was accused of having "bullied and argued with the defendant and other witnesses on cross-examination." In particular the instance in which the attorney general attempted to "break" the defendant by questions as to his will power and refusal to tell the truth was brought forward to illustrate the point.

Again the defense called the attention of the Court to the two theories set up by the State: first in its opening, where it was said that "as he [*Hauptmann*] went out of that window and down that ladder of his, the ladder broke. . . . In the commission of that burglary that child was instantaneously killed when it received that first blow"; second, when the attorney general said in his summation that "this fellow took no chance on the child awakening. He crushed that child right in that room into insensibility."

The defense also asserted that the legal presumption was that the death of Charles A. Lindbergh, Jr occurred in Mercer County and that the venue was improperly laid in Hunterdon County—that the Court that tried the case had no jurisdiction. A confusing discussion of the common law and statutory laws of burglary followed, the defense holding that there was no "intent to steal the infant's clothing", as shown by the fact that the sleeping garment worn by the Lindbergh child had been returned. Furthermore, it was argued, the State introduced no evidence showing the value of the clothing, and without evidence as to its value there was no evidence that this was stealing according to legal definition. Quoting from 26 *Corpus Juris*,

p. 856, Section 394, it was recited that "under an indictment for simple larceny proof that the thing charged to have been stolen had some value is indispensable to a conviction, even though the prosecution is for petit larceny only."

"It follows, therefore," said the brief, "that the case was barren of any evidence establishing a common-law burglary and that the Court was in error in charging the so-called statutory definition of burglary."

Concerning the strong charge of Justice Trenchard, defense counsel continued:

"Counsel is familiar with the ruling in this state to the effect that judges may fairly comment upon the evidence, but the argument is directed to the fact that the Court, in its charge in this case, went beyond the prescribed rules.

"The function of the Court is to conduct the trial in such manner that the jury may pass fairly and intelligently upon the guilt of the accused and base its determination upon the evidence offered by both sides and upon nothing else, and without the slightest attempt to impute anything but a single-minded purpose to fulfill his multifarious duties as a firm and capable moderator and presiding justice in a case tinged with worldwide interest, the defendant nevertheless respectfully insists that the comments made upon the evidence by the trial judge had the intrinsic tendency of controlling the jury in their view of the fact, and the comments of the Court as to particular facts only emphasized, to the disadvantage of the defendant, any other facts of a cognate character which might be found in the evidence of the defendant, Hauptmann.

"The defendant further respectfully insists that notwithstanding what the Court said in regard to the jury's recollection of the evidence as being active and pertinent, every factual comment made by the Court became, by the very mention of the trial justice, elevated to the authority of an established and demonstrated actuality by reason either of the emphasis which the Court placed upon the particular incident, by the modulation or tone of the Court, or its grammatical or rhetorical emphasis of interrogation."

Exception was taken to the comment of Justice Trenchard when he discussed the defense theory that the crime might have been committed by a gang, with the help and connivance of Lindbergh servants. "Now do you believe that?" the justice had asked the jury.

"Whether the kidnaping was done by a gang," said the brief, "with the help or connivance of somebody on the inside of the Lindbergh household was a circumstance to be considered by the jury. It is impossible to escape the conviction that under the conditions prevailing the probability of help or connivance of someone on the inside is a far more reasonable hypothesis than any theory advanced by the State. Hence the interrogatory, 'Now do you believe that?' was not justified."

The justice was also taken to task for casting doubt on the testimony of Charles De Bisschop and Ewald Mielke, "honorable and well-versed men with years of experience in handling wood", when he asked the jury, "Does not the evidence satisfy you that at least a part of the wood from which the ladder was built came out of the flooring of the attic of the defendant?"

Overemphasis by Justice Trenchard upon the testimony of Amandus Hochmuth was also cited as unfair to Hauptmann. The defense asked with some sarcasm why Hochmuth had not testified in the Bronx. The fact is that the State did not wish to reveal its entire case and so withheld not only Hochmuth, but Dr Condon himself from the stand in the extradition proceedings.

The defense brief continued its critical comment upon the judge's charge with respect to the handwriting evidence, especially where he called attention to the senior Osborn's declaration that the proof that Hauptmann wrote the ransom letters was "irresistible, unanswerable and overwhelming", thus placing "undue emphasis" upon the value of such testimony.

Under a general title—"The verdict was against the weight of evidence"—the appeal declared that "the testimony of Colonel Lindbergh as to the voice identification was of such nature that but little weight should be given to it. His testimony is that a distance of more than two or three hundred feet intervened between the spot where he was parked in an automobile and the spot where the conversation took place." Colonel Lindbergh's presence at counsel table during the trial was also cited as being "for the sole purpose of influencing, unfairly, the jury in this cause." Testimony of Whited, Hochmuth and Rossiter also was criticized.

Regarding Arthur Koehler's testimony, the brief said:

"In connection with the testimony of Arthur Koehler, the so-called wood expert, it is respectfully submitted that the type of testimony given by Mr Koehler falls in the same general

category as the type of testimony given by the alleged handwriting experts, although it is even less known in the law than the testimony of handwriting experts. It was conceded by Mr Koehler that he was making his first appearance as a witness in a criminal case, that he had had but little experience in attempting to detect crime by the use of his craft. His testimony was contradicted almost *in toto* by a practical lumberman brought in by the defense, so that his testimony that a rail of the ladder was a part of the board out of the attic in the house occupied by Hauptmann was so fantastic as to be unworthy of belief."

The testimony of Dr Condon, of Hildegard Alexander, of Frank Wilson and Colonel Schwarzkopf was attacked as "unworthy of belief", and the defense scoffed at Cecile Barr's story of the passage of a five-dollar bill at the Sheridan Square Theater, declaring it a "physical impossibility" for Mrs Barr to have identified Hauptmann with any certainty as the ransom bill passer.

The Court of Errors and Appeals was then asked to take cognizance of "the continuous newspaper activity during the trial of the case, the presence of talking-picture cameras in the courtroom and in operation during the taking of testimony, the continued presence of notables at State's counsel table during the progress of the trial, the hue and cry constantly present immediately outside and adjacent to the courtroom . . . the crowds through which the jury of necessity must pass to and from the jury box to their quarters, all of which tended greatly to influence the jury contrary to the evidence."

The next argument was, in the light of the character of the witnesses presented by the defense, nothing short of consummate audacity. The Court was asked to consider, if you please, "that the facts as recited above had a tendency to attract from all quarters of the country publicity-seeking persons, people whose sole interest in the case was to crash in for the purpose of personal advertising. Such as the witness, Rossiter, as the witness, Alexander, as the handwriting experts and other experts, as the witnesses Condon, Gaglio, Rosenhain and Reich, Perrone, Whited, Hochmuth, Barr and Achenbach et al. Because of their acute desire to take their place in the sun in this case, fanciful testimony was wrought in their minds and they came forth to testify to things that were fully imaginative and untruthful because of their desire for the public light. All of

the testimony so procured is unworthy of common belief and should have been utterly and entirely disregarded by the jury and unquestionably would have been so disregarded in the average case, one which did not include Colonel Lindbergh, one of America's foremost citizens."

When one recalls the appearances, for the defense, of the witnesses Peter Sommer, Lou Harding, Louis Kiss, Elvert Carlstrom, Sam Streppone, Benjamin Heier, August Van Henke and others, and when one considers the method of their gathering, by radio appeal and other unusual practices such as invitations through the press, such charges become an affront to the intelligence of the judges of the Court of Errors and Appeals.

The higher court heard the appeal on June 20, 1935, and considered the arguments through the long summer vacation. As summer passed the defense attorneys, now without the advice and counsel of Mr Reilly, pursued their own methods of keeping the case alive. A rash of stories broke out in the more sensational magazines and newspapers. "New evidence" was almost constantly promised, reported or discovered. Ransom bills "turned up" one day and on the next were found *not* to be ransom bills. Dr Condon wrote his story for the public prints. Arthur Koehler wrote his—and a fascinating story it was. Psychiatrists, psychoanalysts, lawyers, police reporters, amateur and professional sleuths debated the guilt of the convicted man, many of them betraying the same lack of knowledge that had impelled Alexander Woolcott to write, months before: "It has been my experience that those who volunteer with the greatest assurance what they think as to the guilt or innocence of Bruno Hauptmann are more often than not persons who, as far as an onlooker can judge, have yet to give the first outward sign that they can think at all."

October came, and with it the decision of the Court of Errors and Appeals upholding the conviction by the Hunterdon County jury. In the opinion, written by Judge C. W. Parker, every contention of the defense was swept aside in language that made the temper of the higher court unmistakable. There remained to Hauptmann only two courses: an appeal to the United States courts under the "due process" clause of the Constitution, and an appeal to the New Jersey Court of Pardons for clemency. On October 15 Hauptmann was granted a stay of execution to permit perfection of his plea to the United

States Supreme Court, and six days later his attorneys argued their case, citing conditions in Flemington, the presence of Colonel Lindbergh at the trial and many other arguments already advanced in previous motions as proof that their client had not received the fair and impartial trial guaranteed under the law.

Meanwhile there was brewing, in the inner political circles of New Jersey, a situation as bizarre, as fantastic, as any of the previous tragic developments brought about by the machinations of John Hughes Curtis, the cruel hoax of Gaston B. Means or the suicide of Violet Sharpe. Governor Harold G. Hoffman of New Jersey admitted, under pressure, that he had visited Hauptmann in his cell and announced his opinion that the kidnaping case had not been solved, that if Hauptmann were actually guilty he must have had accomplices and that "investigation" would be continued.

### § 9

Governor Harold G. Hoffman, comparatively young, a war veteran with a record of distinction, and one of the few Republican state executives to survive the Democratic landslide that had been the product of depression, regarded himself (and was regarded by his friends) as a potential candidate for the presidency of the United States or, failing that, for the vice-presidency. He had a vigorous personality. His record as governor, while not brilliant, at least showed ability. His espousal of Hauptmann's cause brought him smashingly to the attention of the American public, and for months he was to remain a front-page figure.

By those who had followed the case in all its ramifications and who had analyzed and digested the evidence the governor's action was viewed with amazement and concern. By those whose sentiments are always with the condemned—regardless of guilt—by those whose racial sympathies were with Hauptmann, and by those who, having the preconceived notion that Hauptmann's participation was "impossible", stubbornly clung to their beliefs against the weight of all evidence, the governor's declaration was hailed with delight. In particular it undoubtedly gave renewed courage to the man in the death cell and inspired him to cling to his profession of innocence.

The governor's motives for defying his own courts and all

the overwhelming weight of their findings need not be discussed here. It may be that he was sincerely convinced of the strength of his position. He was decidedly not en rapport with the police and prosecuting officials, who were of an opposite political faith. He was, even at that time, contemplating the replacement of Colonel H. Norman Schwarzkopf as head of the state police by Mark O. Kimberling, then warden of the state prison, and he seemed to have accepted in toto the defense accusations against the police authorities in that they had, first, bungled the case and, second, "framed" the case against Hauptmann for want of a victim. There was a curious alliance in this matter between Governor Hoffman and Ellis Parker, chief of Burlington County detectives, who had up to that time a considerable reputation as a philosophical sleuth with strong deductive faculties. The governor insisted in interviews that Parker was not employed by him. He admitted that he had had several conferences with Parker and that their views of the case seemed to coincide. He appeared not to know that at the time of the Hauptmann trial Attorney General Wilentz had vainly besought Parker to testify, "whether for State or defense", and that Parker had flatly refused with the declaration that he "knew nothing about the case."

The governor's declaration of "faith" in the prisoner came on December 5, 1935. Four days later the United States Supreme Court refused to disturb the decisions of the New Jersey courts, and Hauptmann's only remaining hope lay either in the discovery of new evidence that would warrant reopening the case, or clemency by the Court of Pardons.

The most violent of editorial and political criticism descended upon Governor Hoffman's head. To this and to threats of impeachment he responded most nobly that "if impeachment is the price that must be paid for daring to follow the dictates of my conscience, I am ready for it."

Hoffman could not believe, he said, either that the crime could have been committed in accordance with the State's theory of it as expounded at Flemington or that it could have been committed by a single criminal, operating without assistance. He could not believe that any criminal would have constructed his ladder, in part, from wood taken from his own attic. He distrusted Dr Condon's story and dwelt at length upon the question of the doctor's identification (or "declaration of identification") of Hauptmann, which he believed had been forced

from Condon by police intimidation. He is said to have been impressed with the sincerity of Arthur Koehler but to have indicated his belief that the State's second star witness had attempted to prove the impossible. In general he thought that if Hauptmann were actually involved commutation of his sentence might provide a means of wresting from the prisoner the knowledge of his "accomplices", and thus a complete solution of the entire crime and the manner of its accomplishment would be afforded.

He preferred to ignore the obvious deduction from Hauptmann's attitude, his profession of innocence, his refusal to name any "associates", which was that Hauptmann could not name his fellow conspirators because they had no actual existence—*there were none*.

The governor, while not shouting "frame-up" as loudly as defense counsel had shouted it, nevertheless indicated that he was seriously considering that possibility. Again he ignored the obvious argument that such a frame-up, assuredly unparalleled in American jurisprudence, would have entailed collusion between: all the prosecuting authorities of the State of New Jersey; the investigating authorities of the United States Department of Justice; the investigating authorities of the United States Treasury Department; the investigating authorities of the United States Post Office Department; the investigating authorities of the United States Bureau of Forestry; the New York Police Department; the New Jersey State Police; a group of the most noted handwriting experts in America; and all of the minor officials engaged on the case from 1932-34. Such a conspiracy would have necessitated collusion among some six hundred individuals. In the words of Mr Justice Trenchard, now do you believe that?

It should also be borne in mind that perhaps nine tenths of the evidence upon which Bruno Hauptmann was convicted was discovered long before his arrest and that it could not have been manufactured to fit the case, any more than the four nail holes in Rail 16 could have been manufactured to "fit" a photograph already in existence on March 8, 1932.

On December 22 Colonel and Mrs Lindbergh and their son Jon departed these shores for England. They were determined not to be cast in central roles in any further tragedy forecast by the rising tide of public clamor. In their attitude they were regretfully supported by every American newspaper, in whose

editorial columns it was agreed they should not subject themselves to annoyance and persecution inspired by the governor's "reopening" of the case.

On January 11, 1936, the Court of Pardons denied clemency to the condemned man. Governor Hoffman was an ex-officio member of the Court, and he dissented from the decision.

The fact that Dr Condon and his family about this time went upon a Southern cruise brought upon Jafsie the most bitter attack of his career. Hoffman threatened to have him brought back, under arrest, despite the fact that no such procedure, in the absence of formal charges and a warrant, would have had any legal standing. Condon was advised by the attorney general to continue his voyage.

One week after the Court of Pardons had determined not to interfere with execution of the sentence Governor Hoffman announced another "reopening" of the case and hired R. W. Hicks, a private detective, to pursue further investigations. In particular he desired a closer examination of the Hauptmann attic, with a view to disclosing evidence that would have disputed the State's ladder-rail and floor-board theory. The defense forces had long since obtained possession of the attic by lease.

There was a moment, too, when it appeared that one of the "frame-up" charges was about to be substantiated, according to Dr Dudley D. Schoenfeld, who was cognizant of every move made by both sides at that time. At a conference in the Hauptmann attic the ladder rail was placed in its original position on the beams as assumed by the State. The nail holes matched, but when the investigators sought to introduce nails into the holes the nails projected above the wood. Now Lieutenant Bornmann had testified that when he inserted the nails they easily sank flush with the top of the board. The governor is said to have demanded the "truth" from Bornmann and an admission that he had perjured himself. Bornmann insisted he had told the truth. Then, upon the insistence of the attorney general, the nail holes were sawed open. It was then discovered that small plugs of wood had been driven into the holes. And the defense had charged the State with "tampering with evidence"!

Governor Hoffman had, meanwhile, granted Hauptmann a thirty-day reprieve, although the legality of this action was open to question. The attorney general did not want to be put in the position of opposing the reprieve—of deliberately striv-

ing to hasten a man's death. Almost simultaneously the governor announced receipt of a letter, signed "J. J. Faulkner", which presumed to clear away the mystery attached to the deposit of nearly three thousand dollars in Lindbergh ransom bills with the Federal Reserve Bank early in 1933. Within a week the note was proved to be a fake and a forgery and so proclaimed. That appeared to dispose of the Faulkner issue.

The month of February opened with Hoffman promising publicly to name a new suspect, and he was supported in the promise by Detective Parker, who asked that more time be given to investigate certain clues which he had himself uncovered. Almost simultaneously the governor succeeded in interesting a noted New York criminal attorney, Samuel Liebowitz, in the case. Mr Liebowitz went to Trenton and talked with the prisoner, with the promise that if Hauptmann "told the truth", he would undertake to represent him in any further moves. From the convicted man, who had been heartened by the governor's interest in his welfare, he obtained nothing more than reiterations of innocence and repetitions of his timeworn "Fisch" story. On February 19 the distinguished defender announced his complete withdrawal from the affair. And on the same day Hauptmann was resentenced to death in the electric chair during the week of March 30.

In keeping with other fantastic phases of the now frantic endeavor to "save" Hauptmann, it now became known that part, at least, of the finances required for defense investigations and the employment of Detective Hicks came from P. J. Clancy, editor of a magazine devoted to astrology. Next it was revealed that Governor Hoffman was "studying" the "data" of Gaston B. Means, the dimpled rogue languishing behind federal bars for his swindle of Mrs McLean, and it was not long before that persuasive gentleman obliged the governor with a complete "confession" of the kidnaping. He "exonerated" Hauptmann and said that he himself had been hired by a relative of the Lindberghs to steal the child. Two gangsters, well known to the police, were implicated in the confession. The money, Means was sure, would be found in their safe-deposit box. Of course both gangsters were dead—killed in a racket feud. And there was no money, in or out of a safe-deposit box. As a liar Means was losing his punch. This time nobody (except one or two New Jersey politicians) gave more than one minute's consideration to the "confession."

Simultaneously with Means's bid for publicity it became known that the "investigations" of Sleuth Ellis Parker had borne strange fruit. Another "confession" had been obtained from a disbarred lawyer named Paul H. Wendel. It was *not* known, however, until forty-eight hours later that this confession had been repudiated by its maker. Nor was it known that Governor Hoffman had knowledge of the confession several weeks before the legitimate prosecuting authorities, the attorney general or the public were aware of it.

There is some indication that the holders of the Wendel "confession" intended to preserve secrecy about it until the eleventh hour—for what purpose may only be conjectured—and that a premature publication of the "news" by the *Labor News*, a Trenton publication, forced a change in the plan. Immediately upon reading the story Attorney General Wilentz telegraphed to Detective Parker, inquiring where Wendel could be found. Within a few hours Wendel had been released from the New Lisbon Colony (an institution for mental cases), where he had been confined under the orders of Parker for thirty-four days.

Notwithstanding Wendel's complete repudiation of his confession and a melodramatic story of kidnaping and torture through which he was forced to sign, not one but half-a-dozen confessions, the Mercer County grand jury proceeded to investigate with a view to indicting the man.

On March 30 the Court of Pardons ended all hope of clemency for Hauptmann by refusing a second petition for commutation, and Governor Hoffman announced that there was no further legal warrant for his intervention.

It was believed that Hauptmann would be taken to the chair on the night of March 31. The death chamber was prepared. Official witnesses were summoned. Mrs Hauptmann, the clergy, the attorneys made farewell visits to the condemned man. But was this "stage play"? On that appointed night Warden Mark O. Kimberling received a telephone message from Allyne Freeman, foreman of the Mercer County grand jury, informing him that the grand jury was still considering the Wendel case and suggesting postponement of the execution—which lay within the legal power of the warden—until that case could be disposed of.

For three days the Mercer County grand jury toyed with its new sensation. But that was pushing the law to the utter-

most limit. On the third of April 1936 the prisoner had to die. There was no way, short of an arbitrary and illegal command of the governor, to save him beyond that date.

So Hauptmann went to the chair. Those best fitted to observe his demeanor described him as "a man already dead" when he entered the lethal chamber. He had been "dead", his guards declared, for three days. The shock of discovering that he, Hauptmann, author of the greatest crime of the century, had actually been defeated by "little men, little pieces of wood; little scraps of paper" had paralyzed his consciousness no less surely than the whining electric current was now to halt forever the processes of his unfathomable brain.

Paul H. Wendel's story of the methods used to extract a fake confession from him was lurid. On February 14, he said, he was kidnaped by five men and taken to the cellar of a house in Brooklyn, where he was tortured until, in fear for his life, he was ready to sign anything. Several "confessions" to which he gladly affixed his name were taken to other persons and later returned as "unsatisfactory." Finally, when one appeared to satisfy the mysterious employer of the tortures, he was taken across the New Jersey state line and given into the custody of Ellis Parker, who thereupon had him confined in the New Lisbon Colony.

Wendel was able to give corroborative information regarding the "gang" who had held him prisoner in Brooklyn, and by descriptions of the place of his confinement afforded the New York police sufficient clues to run down the kidnapers. Five men were indicted: Harry Bleefeld, owner of the house in Brooklyn where Wendel said he had been imprisoned; Murray Bleefeld, Harry's son, a resident of Trenton; Martin Schlossman, of Brooklyn, Harry Weiss and Ellis H. Parker, Jr, son of the Burlington County detective.

Weiss was captured in Youngstown, Ohio, a fugitive from justice, and upon being returned to New York made a complete confession, in which he said he had been inspired by the younger Parker to the deed, upon representations that it was all in a good cause and that Wendel was the actual kidnapere of the Lindbergh child. He had been "deputized", he said, by Parker; accordingly, he believed he was acting within the duties prescribed for officers of the law.

Weiss's confession was followed by an admission of the kid-

naping "plot" by Murray Bleefeld, whereupon the elder Parker was also indicted by the Kings County (New York) grand jury.

But Kings County was not to see the Parkers. Before the indictment of the senior sleuth the son disappeared and "could not be found" until it became known that Governor Hoffman would refuse to extradite him—or his father—to New York. So young Parker surrendered, and the governor kept his promise. He did not believe the Parkers could get justice in an unholy, politics-ridden community such as Brooklyn where politicians were attempting to make capital out of a criminal case! And there was nothing New York could do about it, either.

Lacking the Parkers, Kings County proceeded with the trial of its own prisoners, and after one disagreement a jury finally convicted Schlossman, Bleefeld and Weiss on March 11, 1937, of violation of the New York State antikidnapping laws. They were sentenced to imprisonment in Sing Sing from twenty years to life.

If the State of New Jersey continued derelict in the duty of seeking the judicial truth in the case of the two Parkers, the Federal Court at Newark did not. The detective and his son were indicted by a federal grand jury. After a long trial in which the defense set up two theories, first that the Parkers were not concerned in the kidnaping of Wendel, second that if they were, they were justified because they were acting as officials who actually believed Wendel was guilty of the Lindbergh kidnaping, the two men were convicted under the federal Lindbergh Law.

Judge William Clark, who presided at the Parker trial, said that the two detectives had weakened their case "by an untrue denial" that they had kidnaped Wendel.

"I have the impression," he said, "that your life, Mr Parker, as law-enforcement officer and your position in the community have given you the feeling that you are above the law and that is the cause of your making a mockery of the processes of justice in New Jersey."

Thereupon, complying with the jury's request for leniency, he sentenced the elder Parker to six years, and the younger Parker to three years, imprisonment in the federal penitentiary.

# DATES IN THE HAUPTMANN CASE

|      |              |  |
|------|--------------|--|
| 1899 | November 26. | Bruno Richard Hauptmann born at Kamenz, Germany.   |
| 1902 | February 4.  | Charles A. Lindbergh born.   |
| 1913 |              | Hauptmann begins works as a carpenter's helper.  |
| 1917 |              | Hauptmann called into the German army as a machine gunner; is slightly wounded and gassed.                               |
| 1918 | December     | Hauptmann discharged from the army; returns to Kamenz.   |
| 1919 | March        | Hauptmann, alias Karl Pellmeier, convicted of burglarizing the home of the mayor and of entering a home in Reichowitz.   |
| 1919 | June 3.      | Hauptmann released on parole; returned to jail within two weeks for theft of clothing; convicted of holdup of two women. |
| 1920 |              | Charles A. Lindbergh matriculates as student of mechanical engineering, University of Wisconsin.                         |
| 1922 | February     | Charles A. Lindbergh enrolls in flying school.   |
| 1923 | Spring       | Hauptmann escapes jail at Beuthen, Germany.  |
| 1923 | June         | Hauptmann stows away on ship bound for America; is discovered and returned to Germany.                                   |
|      | August       | Hauptmann makes second attempt to enter America as stowaway; is returned again.  |
|      | November     | Hauptmann's third attempt to enter America is successful.  |
| 1925 | October 10.  | Hauptmann and Anna Schoeffler are married. Hauptmann steadily engaged as carpenter.                                      |
| 1927 | May 20-21.   | Charles A. Lindbergh makes historic flight from New York to Paris and is acclaimed by world.                             |
| 1929 | May 27.      | Charles A. Lindbergh and Anne Morrow are married.  |
| 1930 | June 22.     | Charles A. Lindbergh, Jr born in Englewood, at home of Senator and Mrs Dwight Morrow, his grandparents.                  |

## 88 TRIAL OF BRUNO RICHARD HAUPTMANN

1931 Winter Lindberghs build residence at Hopewell, New Jersey.  
Hauptmann fortunes at low ebb because of speculation.

1932 March 1. Charles A. Lindbergh, Jr, stolen from nursery in Hopewell.  
March 9. Dr John F. Condon visits Hopewell with two letters received from kidnaper, demanding \$70,000 ransom; is empowered to deal with the criminals.  
March 12. Dr Condon talks with kidnaper for more than an hour, on park bench in Woodlawn Cemetery.  
April 2. Condon and Lindbergh, acting on instructions, go to St Raymond's Cemetery and there deliver \$50,000 to extortioner; in return receive instructions that kidnaped boy is on "boat Nelly", near Buzzards Bay.  
April 3-4. Search of Long Island Sound by plane, by Lindbergh and Condon, fails to reveal kidnap boat.  
May 12. Body of kidnaped baby discovered in shallow grave near Mountrose Road.  
June 10. Violet Sharpe, Morrow maid, commits suicide.  
June John Hughes Curtis convicted of obstructing justice by pretending he was in contact with kidnapers.  
June Gaston B. Means convicted of swindling Mrs Evelyn Walsh McLean out of \$104,000 in pretense that he could return the Lindbergh child.  
June Anna Schoeffler Hauptmann visits Germany.  
June Hauptmann meets Mrs Gerta Henkel.  
July (?) Hauptmann is introduced to Isidor Fisch at Henkel home.  
1933 November 26. Hauptmann's birthday anniversary. Mrs Cecile Barr, movie cashier, receives five-dollar Lindbergh ransom bill; describes passer to police.  
December 2. Farewell party for Fisch at Hauptmann home.  
December 6. Fisch leaves "shoe box" with Hauptmann. (?)  
1934 March 29. Fisch sails for Germany.  
August Fisch dies in Leipzig hospital.  
September 15. Hauptmann discovers (?) ransom hoard in shoe box.  
Hauptmann passes ten-dollar ransom gold note at Warner-Quinlan filling station.

## TRIAL OF BRUNO RICHARD HAUPTMANN 89

September 19. Hauptmann arrested; twenty-dollar ransom bill found in his wallet.

September 20. Detectives find \$13,760 in ransom bills in Hauptmann's garage.

September 25. Detectives discover \$840 concealed in block of wood in Hauptmann's garage.

October 15. Extradition trial opens in Bronx County Court.

October 16. Hauptmann remanded to custody of New Jersey officers.

October 19. Appeal to Appellate Division denied; Hauptmann taken to Flemington, New Jersey, to stand trial for murder of Charles A. Lindbergh, Jr.

1935 January 2. Trial of Hauptmann for murder opens in Hunterdon County Court, Oyer and Terminer.

February 13. Hauptmann convicted of murder of Charles A. Lindbergh, Jr without recommendation for mercy.

June 20. Court of Errors and Appeals hears Hauptmann appeal.

October 9. Court of Errors and Appeals denies Hauptmann appeal.

October 15. Stay of execution granted for appeal to United States Supreme Court.

November 12. Defense appeals to United States Supreme Court.

December 5. Governor Harold G. Hoffman reveals he has interviewed Hauptmann in cell; doubts case is solved.

December 9. United States Supreme Court refuses to intervene.

December 22. Colonel and Mrs Charles A. Lindbergh sail for England with their son Jon.

1936 January 11. Court of Pardons refuses clemency to Hauptmann.

January 16. Hoffman grants Hauptmann thirty-day reprieve.

February 29. Paul H. Wendel's and Gaston B. Means's "confessions" announced. Wendel repudiates confession.

March 31. At eleventh hour Warden Mark O. Kimberling reprieves Hauptmann "for forty-eight hours", while Mercer County grand jury investigates Wendel "confession."

April 3. Bruno Richard Hauptmann electrocuted.



## STATE VS. HAUPTMANN

PRESENT:

HON. THOMAS W. TRENCHARD

APPEARANCES:

For the State:

MR WILENTZ  
MR LANIGAN  
MR HAUCK  
MR PEACOCK  
MR LARGE

For the Defendant:

MR REILLY  
MR FISHER  
MR POPE  
MR ROSECRANS

## FIRST DAY

*Flemington, N. J., January 2, 1935.*  
ON THIS DAY there were selected for the jury the following persons: Charles Walter, Sr, Foreman, Rosie Pill, Verna Snyder, Charles F. Snyder, Ethel Stockton, Elmer Smith, Robert Cravatt, Philip Hockenbury, George Voorhees and May P. Brelsford.





THE FIRST POSED PICTURE OF THE HAUPTMANN JURY  
*Left to right, front row:* George Voorhees, Mrs Ethel Stockton, Charles F. Snyder,  
Verna Snyder, Mrs Rosie Pill, and Foreman Charles Walton, Sr. *Back row:* Robert  
Cravatt, Elmer Smith, Philip Hockenbury, Mrs May Brelsford,  
Liscom C. Case and Howard Biggs.



## SECOND DAY

*Flemington, N. J., January 3, 1935.*

THE COURT CAME IN at 10:00 A.M., and there were selected to complete the jury the following persons: Liscom C. Case, Howard V. Biggs.

The jury were sworn, after which the attorney general made the following opening:

### OPENING

MR WILENTZ: May it please your honor, Mr Foreman, men and women of the jury:

A grand jury that was composed of citizens of this county has returned an indictment charging that Charles A. Lindbergh, Jr was murdered. It is the law, men and women, as will be pointed out to you by the Court, that where the death of anyone ensues in the commission of a burglary, that killing is murder—murder in the first degree.

It is also the law, as the Court will point out to you, that if a person in the murder is feloniously stricken in one county, that is, the blow is given in one county, but death ensues in another county, notwithstanding the fact that the death ensues in the other county, it is murder in this county if the felonious striking took place here, or if the death occurs here.

I just point that out to you; not that I expect it will have any particular effect, because we are going to prove that not only the striking but the death took place in Hunterdon County.

Now, on the first day of March 1932 the State will prove to you that a very distinguished citizen of this country was a resident of Hunterdon County and on that day the household, the Lindbergh household, consisted of Betty Gow, Mr and Mrs Whateley, Colonel Charles A. Lindbergh, his wife and their only and infant son, who was twenty months of age, I think it was, twenty months old or young. The child was a

happy, normal, jovial, delightful little tot that age—blue eyed, curly headed, blond haired. He had been playing around that entire day with the family, and on the night of March 1, 1932, that child was killed; and the State will prove to you jurors that the man who killed and murdered that child sits in this very courtroom—the gentleman in the custody of the sheriff's guards right in the rear of the distinguished members of the Bar who make up the defense counsel.

This crime had been planned for some time. This defendant, Hauptmann, had conceived this plan and had undertaken it, had plotted it, prepared it, and we will show you that by the fact that he was in and about the vicinity of this Lindbergh home on many occasions before as well as at the time of the crime.

He came there with his ladder, placed it against that house. He broke into and entered at night the Lindbergh home with the intent to commit a battery upon that child, and with the intent to steal the child and its clothing. And he did. Not only with the intent, but he actually committed a battery upon the child and did steal it and did steal its clothing. I will refer to its clothing and its stealing a little while later.

Then as he went out that window and down that ladder of his the ladder broke. He had more weight going down than he had when he was coming up. And down he went with this child. In the commission of that burglary that child was instantaneously killed when it received that first blow. It received a horrible fracture, the dimensions of which, when you hear about it, will convince you that death was instantaneou<sup>s</sup>.<sup>1</sup>

Getting down there, he took the ladder and about seventy feet away the load was too heavy. In the one hand he had the ladder, and in the other he had this bundle, this dead package with him. The ladder was of no particular use to him. He abandoned that. Then he proceeded on his way until he had gotten about a half mile, the child dead. Knowing it was dead, he wasn't a bit concerned about it, and there, three thousand or more feet away and still on the Lindbergh estate, he yanked and ripped the sleeping garment of that child off its body. Though it was cold and raw, he yanked and ripped that sleep-

<sup>1</sup>The attorney general's opening statement concerning the cause of death was at wide variance with the theory he advanced in his summation, when he said: "Let me tell you why the child didn't cry. This fellow took no chance on the child awakening. He crushed that child right in the room into insensibility. He smothered and choked that child right in the room."

ing garment off that child, because he didn't need the child, as we will show you: he needed the sleeping garment.

Then, of course, at the very first convenient spot, some few miles away, he scooped up a hastily improvised and shallow grave and put this child in face downwards, and on he went on his way to complete the rest of his plans in this horrible criminal endeavor.

Well, pretty soon, about ten o'clock, the Lindberghs found out that their child was missing—and you can, of course, imagine the excitement, you can imagine how hysterical some of the members must have been—and the first thing, as soon as Colonel Lindbergh heard about it, he immediately asked Whateley to call the police, and then he grabbed his rifle and went through the woods and up and down the roads, while Mrs Lindbergh and the rest of the family looked through closets, looked here and there, looked through places they knew the child would not be, but just looked, in the hope that springs eternal in the human breast—and then of course the world knew.

Of course they didn't know their child had been murdered. There was a note left in the room by the defendant, and that note indicated that the person responsible for this crime would get in touch with the Lindberghs again in a few days. He did.

He wrote Colonel Breckinridge, and in a few days after crying to Colonel Breckinridge, the world having become aroused, a very distinguished and aged educator and scholar and teacher in the Bronx, in a desire to serve society and in a desire to serve the Lindberghs, inserted an advertisement in the Bronx *Home News*, and that advertisement Mr Hauptmann answered. He said: "We will take you, Condon, we will take you as the intermediary."

We will show you that this defendant Hauptmann personally delivered a note to a taxi driver and said, "Take this down to Condon's home, down where Decatur Avenue is." That note was not mailed; that note was delivered and delivered for a purpose, because in that note he gave Condon, I think it was three quarters of a hour to get to the place to meet him. The aged gentleman went down there to Woodlawn Cemetery and on the inside of the cemetery was Mr Hauptmann, on the inside of the gates and Condon there on the outside until Hauptmann, becoming alarmed because somebody was coming somewhere in the distance, scaled and climbed a nine- or ten-

foot cemetery gate and then jumped down, ran across the street to a park there and finally, when he realized he wasn't being followed by police, but only had this aged man to contend with, he stopped and there they talked. They talked for an hour and ten or an hour and twenty minutes, and in that talk this defendant said, "Will I burn if the child dies?"

Oh, he tried to sell Condon the idea to give up Lindbergh's money without seeing the child, and Condon had no authority.

The doctor said, "Please let me see the child; take me as a hostage; don't worry, I can't do anything to you. Just let me see the child so I can tell Mrs Lindbergh I saw it. You can keep me there until the money is paid if you want to."

"Oh," he said, "No. I would smack me out; No. I would smack me out."

And so finally Hauptmann says, "Doesn't Lindbergh know we are the people that kidnaped his child? Doesn't he know we are the right people? Doesn't he see the symbol on the note, the two circles with the big red circle in the center and the holes? If he doesn't, and that isn't enough, we will send him the baby's sleeping garment. We will send him the baby's sleeping garment."

And it took them two or three days to send it. I suppose he had to have it washed.

And then within a few days, while Colonel Breckinridge was at the Condon home (he had been there every day since the day Condon received the first message) while Colonel Lindbergh was there, that sleeping garment came in the mail from Mr Hauptmann, with his circles and with his holes, as positive proof that it was him. And then Hauptmann says: "Now no more terms. The Lindberghs don't see this child until they put up the money; and if you don't take those terms we can wait. Lindy has got to come to us. We can wait; but if he waits until after April 8, the price is \$100,000—it is \$70,000 now."

And so finally, here at this Condon home in the Bronx—all of this thing taking place in the Bronx—right alongside of Hauptmann's back yard, waiting there, finally Jafsie answered for Colonel Lindbergh, "The money is ready, we accept. We accept, the money is ready."

And so on Saturday, April 2, \$50,000 prepared for Colonel Lindbergh was bundled into a box. Oh, I have got to tell you about that box. Why, the carpenter put a picture of the box in his notes. He not only put a picture in it, he gave you the

dimensions—6 by 7 by 14—in his own handwriting. He told them how to bundle it up; he measured it, mind you, in his own imagination and there he put this picture, in this note, of this box with the dimensions.

Why, he might just as well have put his picture in there. And so they prepared a box, put the money in the bundle and then along came another messenger on a Saturday night and said, "Within three quarters of an hour you come here or you come there," and of course they did. Well, you can imagine, you can imagine the condition of Colonel Lindbergh then. There he was about to get his child. He only needed the money, and he had that money to give up; it was all prepared. And so he said: "I will go with you, Doctor Condon," and Colonel Lindbergh drove that little automobile on that night with Condon to follow the directions to a green house and there they would turn over a stone and under that stone they would get further directions and they did.

And Condon lifted up that stone or table or whatever it was and there it was: "Cross the street and go to Whittemore Avenue," or something like that.

He showed it to Colonel Lindbergh, and they did that. Right across the street he had picked out another cemetery for his next meeting place. And there was Condon in the middle of the road.

Now don't imagine that that particular section of the Bronx is any more populated than it is right here in Flemington, and particularly in the vicinity of the cemetery.

And there stood Condon, waiting to see where Hauptmann was. Finally Hauptmann hollered, "Hey, Doctor, hey, Doctor" —twice.

In the still of the night you could have heard it for two blocks and particularly in the vicinity of the Bronx. So finally Doctor Condon went down, followed him along, he on the inside of this St Raymond's Cemetery, Condon on the outside, until they got to a hedge. And as they got down to that hedge Condon said: "Won't you please let me see the baby first?"

"Now, no use about that."

Well, you know in 1932 times were awfully bad, even for Colonel Lindbergh. Seventy thousand dollars was a lot of money. He wanted \$70,000 then.

"Won't you please cut it down to \$50,000? That is all we ask."

The boss said, "Yes, I will cut it down to fifty."

So Doctor Condon said to him: "Now here, after all, it is just you and I. Now give me a receipt, give me the directions where we are going to find the child."

He said: "All right, all right. You go back. Who is over there in the car with you?"

"Colonel Lindbergh."

"Is he there?"

"Yes, Colonel Lindbergh is there. He has got the money."

"You go back to Colonel Lindbergh and you get the money, and we will meet here in five minutes and I will give you the directions."

He wasn't worried about being apprehended. He was relying upon the word of honor of Colonel Charles A. Lindbergh that all he wanted was his child. Not only that, but he actually had followed and traced Condon—we will prove it to you—to see that he wasn't being accompanied by detectives. He knew he was taking no chances, that he (Lindbergh) wanted the child, that was all. So he went back somewhere and he wrote a little note and he came back. And there over that hedge he received that box with \$50,000.

What do you think he said? "Wait a minute, Doctor, until I see if it is all right. Wait a minute."

Then he dipped his hand into this box and up he looked at Condon and he said: "Your work is perfect." Shakes hands with him. "Your work is perfect."

So within two hours, in accordance with instructions given by Hauptmann, they looked at this note, and the note directed them to go up to some place in Massachusetts; Bay Head, I think it was.

Colonel Lindbergh, Doctor Condon, Colonel Breckinridge and a representative of the United States government got into a plane. And Lindy, who could find a speck at the end of the earth, couldn't find his child because Hauptmann had murdered it. . . .

So back again to New Jersey for Colonel Lindbergh and to the home of sorrow. Then on May 12, 1932, some colored gentleman, driving along the highway, got off the beaten path of the road and into a woods to answer the call of nature—or whatever it was—and there he was horrified by the sight of what appeared to him to be the body of an infant; and of course he rushed away, but not until he had told somebody

about it; and pretty soon, pretty soon, Colonel Lindbergh and Betty Gow and others had turned the body of that child up, face up. The moisture in the ground had still preserved the face a little bit, so that it was white when it was turned up, and twenty minutes after the air struck it, it had turned black. . . .

But there was that little sleeping suit that Betty Gow had prepared and that Mrs Lindbergh had helped her prepare that day; there was the forehead and the brown curls and the curly-headed, prominent forehead under the blond hair; there was that typical nose, and there were the toes overlapping, the overlapping toes of the Lindbergh child. . . .

The Lord moves in a mysterious way, His wonders to perform, as you well know, and the first thing you know a little gas-station attendant in the Bronx found the man that murdered the Lindbergh child. He came there with a ten-dollar bill; it was a gold note, and the station attendant, who was taking money all day long, hadn't seen much of that lately, because the President of the United States had called that gold in, and it was against the law to have it and to hoard it. He said to Hauptmann: "What about this, where did you get this?" Oh, then Hauptmann knew he was in for a little trouble. What do you think he said? He said: "Oh, I have got a hundred of those." Just nonchalantly: "Oh, I have a hundred of those." And off he drove. And so they finally arrested him.

They arrested him, and what do you think he said when they found on his person another Lindbergh bill?

"Where did you get this?" they said.

Now, if he had gotten it honestly he would have told them right then. But what did he do? He said: "This is one of three hundred dollars that I have saved up, because I thought gold would be more valuable, and I got it from my friends and from the banks, and I had three hundred, but this is the last"; so they took him to his house and they started a search.

He knew they would not find it in his home. He had prepared for that. They took him to the police station and they pleaded with him and they talked to him. And then what?

Carpenters dug up thirteen thousand some hundred dollars of United States money—Lindbergh money, ransom money. And he was confronted with that and he said: "Yes, I buried that away."

"Where did you get it?"

"Why, a partner of mine, an associate of mine, a friend of mine, now dead, gave it to me."

"Is that all that you have got?"

"Yes, that is all."

And at that very minute, when he was again saying that that was all he had and that the story which he first told about the twenty-dollar bill, when he admitted that that was untrue, and then he gave this story, at that very minute the police had more money, but he insisted that was all, and when he finished that statement, District Attorney Foley said to him: "How about this eight hundred and some dollars?"

And he said: "Yes, I didn't tell you the truth; that is Lindbergh money too." That is Lindbergh money too. And there, right in the house, hidden on an inside closet wall in his own handwriting, there was the address and telephone number of Doctor John F. Condon, in his baby's closet, on the inside. A little closet; you would have to get in on the inside and he—well, you would have to be the type of man of Hauptmann to get in there.

In his own handwriting, and he is asked: "Why did you write Condon's name on there?"

"Why, you know, I had a funny habit; I liked to write telephone numbers or addresses."

He didn't have anything else in the whole house. And in that search, in that search we found the answer to the ladder.

Now, one year about, before Hauptmann was arrested, one year before any of us knew that there was such a person in existence, the United States government had traced to the Bronx Lumber Yard Company, or the Bronx Lumber Corporation, they had traced some of the lumber; they knew that ladder had been made of lumber, some parts of which came from the Bronx lumber yards.

When Hauptmann was arrested, what do you suppose we find? We find he worked at the Bronx lumber yards, he bought lumber there, but not only that, he has got this ladder right around his neck; he took part of that attic of his and built the ladder with it—and we will prove that to you beyond any doubt.

One rung of that ladder, one side of that ladder, comes right from his attic, put on there with his tools, and we will prove it to you, no matter how difficult it may sound—we will prove it to you so that there will be no doubt about it. . . .

He committed this crime, he had planned it for months, because he wanted money—money—money—lots of money he wanted, and he got it. What do you suppose he wanted it for, and what do you suppose he did with it? He wanted that money so he could do as he did: live a life of luxury and ease so he would not have to work.

He quit his job the day he collected the \$50,000, the very day; they had to replace him, so that he could do as he did: live a life of luxury and ease. So he could go to Florida, so he could have a boat on Hunters Island, and other places; so he could have a radio. In the midst of the worst depression of this land, in May 1932, he spends four hundred dollars for a radio.

Not only that; so that he could—as he did—gamble and speculate with thousands and thousands and thousands of dollars. Why, he poured money into these accounts. In July 1933 alone, what do you suppose this gentleman did? Forty-five hundred dollars in the account of Mrs Schoenfeld or whatever her name is, the wife, the maiden name, the delightful wife of Mr Hauptmann; forty-five hundred in the same month, two thousand more in cash in a savings account. That is besides this money found in the garage. He poured those moneys in there to satisfy his desire to gamble and speculate. Why, he used Lindy's money to buy sweepstake tickets with. What do you think of that?

Now, men and women of the jury, if we do not prove these facts to you, why, you acquit him, you acquit him; if we do not prove them to you, you acquit him. But if we do, as we are confident we will be able to, and as we expect to, let me just tell you, representing the State of New Jersey, that this State will not compromise with murder or murderers. We demand the penalty for murder in the first degree.

MR REILLY: If your honor please, I move now for a mistrial on the impassioned appeal of the attorney general, not being a proper opening, but merely a summation and a desire to inflame the minds of this jury against this defendant before the trial starts.

THE COURT: The motion is denied.

MR REILLY: I ask now, most respectfully, sir, that you will charge the jury at this time that the opening of the attorney general is merely what he intends to prove, that their minds are not to be prejudiced at this time, but they are to keep their minds free and open until the last word of this case.

THE COURT: I suppose the jury already understands that. Of course, the purpose of an opening is to tell the jury what the evidence will show. Of course the jurors will keep their minds open until the last word has been said in the courtroom.

MR REILLY: May I take an exception to your honor's denial?

THE COURT: An exception to what?

MR REILLY: I moved for a mistrial and the withdrawal of a juror and your honor denied the motion at that time.

THE COURT: I will give you an exception.

[*Maps placed on wall at right of jury.*]

THE COURT: We will proceed now.

MR HAUCK: Walter E. Roberts.

MR ROBERTS, sworn as the first witness for the State, described himself as a civil engineer and surveyor, who traced the exhibited maps of the vicinity of the Lindbergh house, and diagrams of the floor plans of the manor. He showed that from the house to the Mercer County line, by the usual roadway, the distance was 3515 feet; by direct line, 870 feet.

#### ANNE MORROW LINDBERGH

*Direct examination by MR WILENTZ:*

The witness was the wife of Charles A. Lindbergh. On March 1, 1932, she occupied a home in East Amwell township, Hunterdon County. In the household on that date, in addition to herself, her husband and her son, were Mr and Mrs Oliver Whateley and Betty Gow. Her son was born on June 22, 1930. The family had come to the Hopewell house from Englewood on Friday, February 27.

Q. Now, referring specifically to that Tuesday, you were there all day?  
A. All day; yes sir.

Q. And your son was there all day? A. All day; yes sir.

Q. Did you leave the premises at all that day? A. I left for a short walk in the afternoon, after Miss Betty Gow had arrived from Englewood to take care of the baby.

Q. What time did Miss Gow arrive? A. About one-thirty in the afternoon.

Q. And about how long were you away? A. Not very long. I could not definitely say; about fifteen, twenty minutes, perhaps half an hour.

Q. And when you returned were Mr and Mrs Whateley and Miss Gow at home? A. They were all at home.

Q. And the child? A. And the child.

Q. Now, during that day had you played with Charles Junior, spent much time with him? A. I had been with him all morning, I put him to sleep for his nap about one, and in the afternoon I played with him after he awoke from his nap.

Q. Now, in connection with the times that you did play with him in the afternoon, was there one occasion while he was up in his nursery and you were downstairs and you played from the downstairs to the window?

Upon returning from her walk, Mrs Lindbergh stood beneath the east nursery window and attracted Betty Gow's attention by throwing a pebble at the window. Miss Gow brought the baby to the window.

Q. Was the window open? A. No.

Q. It wasn't. And in that procedure, and particularly that time that you were throwing the pebble up and walking along the walk there, do you recall your walking on the wooden walk or did you get off of it? A. I walked from the driveway along by the side of the house where it was quite muddy and then on to the flagstones, flagstoned porch at the back.

Q. Well, with particular reference to the easterly side of this house and particularly with reference to that portion of it underneath or near that portion which would be underneath the east window, you say you did walk in the mud there? A. Yes.

Q. Was the condition of the ground such that when you walked there you left footprints of your walk? A. It was.

Q. So that in the afternoon, as I understand it, while walking around on the east side of that building in the vicinity of that portion of the house which would be immediately underneath the east window, the second-floor east window, you left your footprints? A. I did.

Q. Then, too, as I understand it, there was a little wooden walk there, was there not? A. Yes, there was.

Q. It extended along the east side of the house, did it, Mrs Lindbergh? A. It did.

Q. You recall about how wide it was and what it was? Give us your best judgment on it. A. As I remember it, I should say that it was the width of two planks, if not wider. I cannot recollect that completely.

Q. A sort of irregularly placed walk, I take it? Or quite regular? A. It was not a regular walk placed there.

Q. After that—that was about what time in the afternoon, would you say? A. It was, say, around three-thirty—I cannot give it exactly.

Q. Will you tell us then, if you don't mind, please, what you did for the rest of the afternoon and how you spent your time? A. After my

walk I went up into the baby's bedroom, where I found Miss Betty Gow and Mrs Whateley. Then I went down again, I think, into the sitting room. About five o'clock I had the baby down in the sitting room playing with me. He left me to run into the kitchen. After that I did not see him until I went up into the nursery about six-fifteen or after, when he had almost finished his supper. From that time on, for about an hour or a little more than that, I was with the baby, helping to dress him and prepare him for bed.

Mrs Lindbergh described her son as healthy, playful and normal, able to talk as well as the average child of his age. His hair was light golden, and his eyes were blue.

[EDITOR'S NOTE: *The above evidence was designed to counteract rumors that the child was not of normal disposition and physique, as well as to lay the groundwork for identification of the body.*]

Q. I show you a picture and ask you if that is a picture of the child?

A. It is.

MR WILENTZ: I offer it in evidence.

MR LARGE: It ought to be marked.

MR WILENTZ: I offered it in evidence.

THE COURT: No objection; it will be marked.

[*The photograph was received in evidence as State Exhibit S-6.*]

Q. Will you please, to the best of your ability and recollection, describe the nursery room for us? A. Do you mean the placing of the windows, or—

Q. Yes ma'am, and generally about the room as best you can, and the condition in which it was the night of March 1, 1932. A. As you enter the nursery from the hall you face a large french window. Just below the french window was a window box with two doors below it which opened out, for toys. . . .

[*Mrs Lindbergh described the furnishings of the nursery on March 1, 1932, and identified photographs of the room, which were introduced in evidence.*]

Q. Now, I think you stated awhile ago that you were in the room at six-fifteen? A. Approximately.

Q. Approximately six-fifteen. And when did you see the child again? At that time he had already had his dinner? A. He was finishing his dinner.

Q. Finishing his dinner. Where did he have his dinner, by the way? In the nursery? A. In the nursery at the maple table which is in the center of the room.

Q. By the way, your room is connected with the baby's room? A. Through a bathroom.

Q. Through a bathroom. Who had dinner with the baby that evening? Who was with him while he was eating dinner? A. Miss Gow was with him, and I came in at the end of the meal.

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Q. I see. Then did you leave the nursery and where did you go? *A.* I stayed in the nursery until the baby was in his bed. He had been dressed, he had been given medicine, he had been rubbed with some kind of grease.

Q. Vicks VapoRub? *A.* Yes, for his cold, and he had been put in his bed.

Q. About what time was that? *A.* It was a little later than that, about seven-thirty.

Q. Had he had a cold? *A.* He had had a cold for three days.

Q. Was he then suffering with a cold? *A.* He was much better.

Q. Did he still have a little cough, or had it disappeared? *A.* He was a good deal better, breathing easily.

Q. So that you were not particularly alarmed about his cold? *A.* No.

Q. Notwithstanding that, however, as I understand it, you applied these medical aids. Will you tell us then if you were there when the child was put to bed? *A.* He was in his bed when I left.

Q. Who dressed him for bed? *A.* Miss Gow and I.

Q. Will you tell us then about that, please? *A.* What he wore?

Q. Yes ma'am. *A.* He had next to his skin a homemade flannel shirt which Miss Gow cut out and sewed that night out of a flannel petticoat for an infant which I had had since the child was an infant.

Q. Mrs Lindbergh, I want to exhibit to you a piece of clothing that I have and ask you whether or not you can tell what that is? *A.* That is the flannel shirt cut out of the flannel petticoat.

Q. Is that the flannel shirt which your child, Charles A. Lindbergh, Jr, had on that night in that crib when he was put to bed on March 1, 1932? *A.* It is.

Q. Is Exhibit S-13, just introduced in evidence, the shirt which you have just described? *A.* It is.

Q. I notice a green—I think it is—thread; possibly I am mistaken about the color—is that a green thread on the right side? *A.* It is blue.

Q. Blue. Was there a blue thread—I think you said Miss Gow sewed that afternoon. *A.* I did not sew the garment, and I did not get the thread.

Q. Now, will you tell us what else the child had as its bedclothes that night? *A.* On top of the homemade shirt he had a small sleeveless wool shirt, cut very low in front and back.

Q. Will you tell us, please, whether or not you can tell from looking at this piece of clothing what it is? *A.* It is the sleeveless shirt.

Q. Is this the sleeveless shirt that you just described as having been worn by your child that night, March 1, 1932? *A.* It is.

Q. What else did the child wear that evening as bedclothes? *A.* He had diapers, fastened to the small shirt, to the second shirt, and on top of that he had a sleeping suit, a wool sleeping suit.

Q. Did you buy that sleeping suit yourself? *A.* I did.

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Q. I show you what purports to be a sleeping suit, No. 2 Doctor Denton, and ask you whether or not you recognize that sleeping suit. *A.* I do.

Q. What sleeping suit is that, Mrs Lindbergh? *A.* It is the sleeping suit that was put on my child the night of March first.

Q. 1932? *A.* 1932.

Q. And is it the sleeping suit, then, that your son wore that night as he went to bed? *A.* It is.

Q. Now you have told us about the sleeping suit, and if I may be defensively leading for a minute, did the child have any thumb protectors on? *A.* Yes, he had.

Q. Will you describe that thumb protector and how it was fastened, if it was fastened? *A.* It is a wire thumb guard which had a piece of tape through the sides of it and was fastened around the wrist of the sleeping suit on the outside.

Q. Disregarding this little piece of paper please, Mrs Lindbergh, will you tell us whether or not you recognize that as being one of the thumb guards the child had on, one of the thumb guards that was used for your child? *A.* Yes.

Q. And is it one of the thumb guards owned by you and which you used for your child on occasions to affix to the sleeping garment? *A.* It is, yes.

Q. How would you fasten this thumb guard, Mrs Lindbergh? Would you take this string and attach it to the sleeping garment? *A.* No, the guard is slipped over the thumb and the tape is tied twice around the wrist.

Q. Securely tied? *A.* Yes.

Q. I suppose the purpose of it is to have it so secured that the child cannot, either playfully or otherwise, remove it during the night? *A.* Yes, and to have it on top of the sleeper so it will not cut his wrists.

Q. I see. Now, I take it that the last time—I withdraw that. Now, on the night of March 1, 1932, after you saw your child dressed for sleeping, with these articles, did you then leave the nursery? *A.* I left the bedroom and went down into the living room.

Q. About what time was that, if you recall? *A.* About seven-thirty.

Q. Was Colonel Lindbergh home yet? *A.* He was not home.

Q. Had you heard from him that afternoon or evening? *A.* I had heard that he was coming, that he would be late.

Q. That he would be late; he had called you, had he? *A.* He had called me that evening.

Q. All right; now, at seven-thirty, when you came down, that was when you left the child's nursery, what did you do then, Mrs Lindbergh? *A.* I sat at the desk in the living room, which is opposite to the door from the hall.

Q. Would you like to point it out, please? *A.* [Witness indicates on map.]

Q. And you say you did what? *A.* I sat at the desk which is opposite two doors from the hall for approximately an hour.

Q. Were the doors leading to the hall open? *A.* They were usually open—they were open that evening.

Q. They were open that evening, were they? *A.* Yes sir.

Q. And that would take you, you say, to about eight-thirty? *A.* To about eight-thirty, about eight twenty-five.

Q. About eight twenty-five. And then what did you do, Mrs Lindbergh? *A.* At eight twenty-five I heard the horn of my husband's car; he drove into the back court and into the garage. He then came in through the back hall, the kitchen and the dining room, into the living room. We then went upstairs for about five minutes on my husband's watch; we went down again into the dining room and had supper. I think that we finished supper at approximately nine o'clock, perhaps a little after nine. We went into the living room, sat down by the fire for a very short period—perhaps five minutes. We then went upstairs into my bedroom and we sat for about fifteen or twenty minutes talking. After that my husband drew a bath, took a bath and went down again, downstairs into the library, and I got ready to go to bed.

Q. Were you also suffering with a cold that day and evening? *A.* I had caught the cold from the baby. After my husband left I rang the bell for Mrs Whateley and, when she came, asked her for a hot lemonade to take before going to bed. I then drew a bath for myself.

Q. Did Mrs Whateley bring the lemonade? *A.* She did not bring it; she went down to fix it, and after I had taken my bath Miss Betty Gow came in to me through the hall door and asked me if I had the baby and, hearing that I did not, asked me if my husband had the baby, and I sent her downstairs. I then went into the baby's room through the connecting passage. This was after ten o'clock, shortly after ten o'clock. I went into the baby's room through the connecting passage, looked hastily at the bed, found it to be empty, came back into my room, where I met my husband and Miss Betty Gow. My husband went into the closet to take out a rifle, and we all three went into the baby's bedroom and searched it. I was still in the baby's bedroom when Mrs Whateley came upstairs, and I went with her back into my own bedroom and I got dressed and we started to search the house.

Q. By that time I suppose Colonel Lindbergh had notified the police? *A.* He had spoken to Mr Whateley and he had gone outside with Mr Whateley to look around the house. I don't know what he did downstairs.

Q. When you left that room at about seven-thirty o'clock, did you observe whether or not the east window—that is, the casement window I think it is referred to—was closed? *A.* All the windows were closed when I left that room at seven-thirty.

Q. At seven-thirty. And there were shutters on the outside of the windows, were there not? *A.* Yes.

Q. Were they drawn and closed? *A.* Miss Betty Gow and I closed all the shutters on all the windows before I left.

Q. With particular reference to the east window, was it possible to lock it in addition to closing it? *A.* It was not possible to lock it. We both pulled on it and tried to lock it.

Q. But the window and shutters of the room in that nursery were closed, as I understand it? *A.* Closed when I left.

Q. You haven't seen that child since the first day of March 1932, have you? *A.* No.

Q. Did you soon after the child was found missing make a radio appeal and statement giving the baby's diet? *A.* I gave out the baby's diet.

Q. On the night when you walked into that room did you observe whether or not the room had been changed, its appearance had been changed at all from the time that you had seen it at seven-thirty? *A.* I saw no change in the room at all. I noticed no change.

Q. Did you notice the bedclothes? *A.* The bedclothes were apparently untouched, as though the child had been taken out. The pins were still fastening the bedclothes to the mattress.

Q. Had you had pins affixed from the bedclothes to the mattress? *A.* I left the baby before he was completely put in for the night.

Q. I see. But when you did get there, Mrs Lindbergh, you found the bedclothes affixed to the mattress by pins? *A.* Yes.

Q. About how large were the pins? *A.* They were large safety pins.

Q. About four inches? Give us your best judgment. *A.* I would say about the length of a finger, three inches.

Q. About three inches? *A.* Yes.

Q. And they were still securely fastened, were they? *A.* Yes.

Q. How about the windows in the room? Do you recall their condition? *A.* I did not look at the windows.

Q. You did not? Do you recall seeing any particular note there? *A.* No.

Q. Now, when you went in there, who had preceded you in there, do you know? *A.* As far as I know, only Miss Gow.

[*There was no cross-examination, MR REILLY saying: "The defense feels that the grief of Mrs Lindbergh needs no cross-examination."*]

#### CHARLES A. LINDBERGH

*Direct examination by MR WILENTZ:*

Q. Colonel, you are the husband of the lady who was just on the stand. *A.* I am.

Q. On March 1, 1932, you and your family resided in Hunterdon County in the Sourland Mountains? *A.* That is right.

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Q. And you would go from there to Englewood occasionally and back again? *A.* Yes.

Q. Particularly with reference to the week end of March 1, 1932, you and your family did stay and occupy the Hunterdon County home, did you not? *A.* During the week end on Saturday and Sunday, yes.

Q. Your household at that time, I take it, consisted of Miss Betty Gow, Mr and Mrs Whateley, Mrs Lindbergh, yourself and your son? *A.* That is right.

Q. He was twenty months old, approximately, as I understand it? *A.* Yes.

Q. On that day particularly, March 1, 1932, I take it you were at business? *A.* Yes.

Q. What is your occupation—what was it on March 1, 1932? *A.* My occupation is aviation. On March 1, 1932, I had spent the day in New York.

Q. And what time did you return from New York? *A.* I arrived about eight twenty-five in the evening.

Q. And when you got home will you tell us briefly from there until about ten o'clock what happened? *A.* Yes sir. I put the car in the garage at the west end of our house. From there I went in through the kitchen and joined my wife at supper in the dining room on the west end of the main section of the house on the lower floor. We left supper about approximately nine o'clock, went from there into the room adjoining the dining room, which we call the living room, of the house on the lower floor. We sat on a sofa there for about five or ten minutes approximately. From there we went upstairs to our room and continued our conversation there. I then went into the bathroom, took a bath, came downstairs, went into the library, which is on the east end of the main part of the lower floor of the house, sat down at a desk next to the southeast window in that library and began reading.

Q. All right, sir. Now just one moment, please, there, Colonel. Would you mind standing up, please, Colonel? *A.* [Witness steps before the map on the wall.]

Q. The library that you refer to, therefore, is the library shown on Exhibit S-4, the easterly corner of it—that is, the southeasterly corner of the house? *A.* That is correct.

Q. And the window alongside of which this writing table was placed is the window immediately under the sash window, I think they call it, of the nursery? *A.* Under the south sash window on the east side.

Q. The south sash window on the east side? *A.* That is correct.

Q. And that is where you were writing? *A.* Yes. The desk was placed right here [*indicating*].

Q. Right about in the southeast corner, is that it? *A.* Yes, facing south.

Q. All right. Now, you were writing there at about what time would you say, and for how long? *A.* I was reading.

Q. About how long? *A.* I should say approximately half an hour.

Q. And about what time do you believe it was when you first went to that desk or went to that room to sit down to read and started your half-hour reading? *A.* [No answer.]

Q. I understood you to say that you finished dinner about nine o'clock? *A.* It would be in the vicinity of nine-thirty.

Q. And while you were there did you have a clear view of the window that was right alongside of the desk? *A.* I was sitting beside the window. The window was open, or rather the window was closed, but the shutters were open.

Q. The shutters were open? *A.* The shutters were open, and no curtain was drawn.

Q. Was there a curtain on the window? *A.* No curtain on the window.

Q. So that it was absolutely visible to you? *A.* Yes, of course.

Q. The windowpanes were visible to you? *A.* Yes, of course.

Q. You could see through them so far as the darkness would permit? *A.* As far as the darkness permitted, yes.

Q. Did you see any objects coming down past that window or in the vicinity of that window that night? *A.* I did not.

Q. Prior to that time, remembering that that was about nine-thirty, you had been in the living room, had you not? *A.* Prior to that time I had been upstairs, and prior to that time in the living room.

Q. Well, some time during that night did you hear some sort of a noise or crash? *A.* Yes, I did.

Q. About what time was it, and where were you? *A.* Sitting on the sofa in the living room during the ten or fifteen minutes after we had come into the living room from the dining room. At that time I heard a sound which seemed to me, at the time—the impression that entered my mind at the time vaguely was that it was like the top of—well, say, an orange crate, the top slats of an orange box, falling off a chair, which I assumed to be in the kitchen.

Q. That is, sort of like the falling of a crate, a wooden crate? *A.* The slats of a crate.

Q. At any rate, what you felt was happening was that some piece of wood, like the slats of a crate, had fallen in the kitchen? *A.* That is correct. I did not pay very much attention to it at the time, but enough to remark to my wife the words: "What is that?"

Q. And except for that, it went unnoticed? *A.* Yes.

Q. About what time was that? *A.* That would be about nine-ten or nine-fifteen.

Q. Was it the sort of a noise that would come with the falling of a ladder? *A.* Yes, it was, if the ladder was outside.

Q. Finally, at about ten o'clock in the evening, Miss Gow spoke to you about the child, did she not? *A.* About ten o'clock.

Q. Where were you then? *A.* I was reading in the library.

Q. What happened, tell us, then? *A.* Miss Gow called to me in a rather excited voice and asked me if I had the baby.

Q. What happened from then on? *A.* I immediately went upstairs into the nursery and from the appearance of the room I realized, and from the appearance of the crib, I realized that something had gone wrong.

Q. What was the appearance of the room that indicated to you that something had gone wrong? *A.* As I entered the room, of course I at first and immediately looked at the crib. The bedclothing in the crib was in such condition that I felt it was impossible for the baby to have gotten out himself. I knew that neither my wife nor Miss Gow had taken him because Miss Gow had asked me if I had him and my wife was upstairs. The clothing was standing—the bedclothing was standing stiffly enough so that the opening where the baby had been was still there; the clothing had not collapsed.

Q. Was the clothing in that crib still affixed to the mattress by pins, if you know? *A.* As I recall, it was.

Q. I see. Did you see a note in the room, a paper or what? *A.* Yes, I am not at the moment certain whether I saw that note at that time or the next time I entered the room.

Q. I see. *A.* But either the first or second time; I came back very shortly.

Q. How much time intervened, would you say, between your first visit into the room and the second time that you refer to? *A.* I should say not over five minutes.

Q. At any rate, on one of those occasions you found the note there? *A.* I had found a note unopened on the window sill on the southeast corner of the room on the window facing east.

Q. Did you find it, or was your attention directed to it by anyone? *A.* No, I found it.

Q. I see. And I understood you to say on the window sill? *A.* On the window sill.

Q. Was the window open or closed? *A.* The window was closed.

Q. And is this the window shown in Exhibit S-12, alongside of which or near which, you found the note? *A.* It is; on which I found the note.

Q. Will you describe, as you look at this exhibit, just the spot where you found the note? *A.* The note was in an envelope on top of the grating which forms the window sill and through which heat comes from the radiator.

Q. Will you please step down and just show the jury on that exhibit the point at which that note was found by you? *A.* [Witness steps down before the jury.] The note was on this sill.

Q. Indicating the sill underneath the east window, along the east window? *A.* On this sill. [*Indicating.*]

Q. I show you an envelope with the initials F.A.K. on the back of it, and a note with the same initials on the back of it and ask you whether or not that note and that envelope were found by you in that room that night, and whether or not those are the papers you just referred to as being on that window sill? *A.* These are the papers. The note was in the envelope. The initials F.A.K. were not on at that time.

Q. Who placed those initials on? *A.* They were placed on, I believe, by Trooper Kelly; but this is the note and this is the envelope which contained the note on the window sill at that time.

[*The envelope and note were offered and accepted in evidence.*]

MR WILENTZ: I desire to ask permission of the Court to read the note.

THE COURT: You may read it.

MR WILENTZ: "Dear Sir: Have——"

MR POPE: Have you got a copy of the note for us, or anything that we can follow?

MR WILENTZ: If there is a copy I would like to have counsel give it to Mr Pope. I did present a complete copy to former counsel for the defense and it was the only copy I had, but there must be some copy here and we will get it for you.

"Have 50,000" (and the dollar mark after it) "dollars ready, 25,000" (and then the dollar mark) "in 20" (then dollar mark) "bills, 15,000" (dollar mark) "in 10" (dollar mark) "bills, and 10,000" (in each case the dollar mark is after the numbers, and I will just refer to them) "dollars in 5 dollar bills. After 2-4 days we will inform you where to deliver the money" (m-o-n-y). "We warn you making anything" (a-n-y-d-i-n-g) "public or for notify the police. The child is in gut" (g-u-t) "care. Instruction" (or "indication"—I don't know which it is) "for the letters are singnature" (not "signature", "singnature", s-i-n-g, "singnature"—I want you please to remember that).

Then you find these two circles and is indicated there, somewhere with them, as you see them better than I can describe it, this red fireball or blotch and at these distances three holes. Singnature three holes. That is his signature—singnature.

MR WILENTZ:

Q. Now, Colonel, of course you found your baby was missing and you found that—did somebody want to see it?—the bedclothes in the room and the baby's room had been disturbed. Did you notify the police? *A.* I—shall I describe it, what happened to it?

Q. Yes, please. *A.* I immediately went into the closet in our own room, adjoining, and got a Springfield rifle which I kept there and

stood at the top of the stairs, called to Mr Whateley and asked him to call the sheriff at Hopewell. That was the nearest officer of the law that I knew of. As soon as I found that his telephone call went through, so that the wires were not cut, which I had expected, as soon as he received an answer from the sheriff so that I knew that he was coming, I went outside on the road north of the house.

Q. With the rifle? *A.* With the rifle. It was extremely dark that night, I could see a very little distance, and I walked on that road probably for a hundred yards. I then returned to the house. Before I went on the road—I jumped—

Q. All right. *A.* I went ahead a little bit. After Mr Whateley had made contact with the sheriff at Hopewell, or with the chief of police, I then went downstairs—before I went out into that road—and called the New Jersey State Police and Colonel Breckinridge in New York. Then I took the rifle and went out onto the road.

Q. And who is Colonel Breckinridge? *A.* Colonel Breckinridge is my friend and attorney in New York.

Q. You say you went out with this rifle and then returned? *A.* Yes.

Q. Then what did you do, if anything? Had police come? *A.* Very shortly after that Chief Wolfe arrived. Meanwhile we had touched nothing in the house, in the nursery room. I left instructions not to touch anything there. I myself had not touched the note. And after Chief Wolfe arrived we began looking around the house outside.

Q. You are talking of Chief Wolfe of the Hopewell police? *A.* Of the Hopewell police, yes. We went around the side under the nursery window—that is, on the east side of the house; and as I recall now, it was Chief Wolfe who, with his flashlight, found, located the ladder lying quite a few feet in approximately a southeast direction from the nursery window.

Q. You mean that by the light of the flashlight you could see the ladder? *A.* Yes.

Q. That was either Chief Wolfe or Williamson? *A.* Yes. I remember clearly seeing the ladder, but I am not certain at the moment who was holding the light. We walked through there on the planks which had been laid over the mud on the east side of the house, and we found both footprints and the imprints of the end of the ladder approximately under the southeast window of the nursery; but offset slightly to the north. So that the ladder was actually resting slightly to the north of the window itself.

Q. And you found the imprints of that ladder there? *A.* Yes.

Q. And you say "footprints"; did you find Mrs Lindbergh's footprints there? *A.* The footprints that I saw at the time were of a man.

Q. I see. Did you see any of her footprints *A.* I don't recall seeing any of hers.

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Q. You don't recall. All right. Now after that, sir, I take it that state police came and you showed them the note? Oh, pardon me, before that, when Officer Williamson—or Chief Wolfe, is it? *A.* Chief Wolfe.

Q. Chief Wolfe? *A.* And Officer Williamson.

Q. And Officer Williamson; when they came did you take them up to the nursery? *A.* I believe so.

Q. Well, at any rate, who were the officers, if you remember, Colonel, to whom you first exhibited the note? *A.* I left instructions after finding the note that no one was to touch it, and the note was not touched until Trooper Wolfe of the New Jersey State Police arrived. He moved the note from the window sill to the mantel over the fireplace with a penknife.

Q. Yes sir. *A.* And the note itself was not opened until Trooper Kelly arrived with suitable equipment for examining it.

Q. Now I want to show you a picture of what, I believe, purports to be the ground right underneath the window in the immediate vicinity of that window, with some impressions or holes in the ground, and ask you whether you recognize those holes as being the place where the ladder stood, or the indentation or the impressions made by the foot of the ladder that you have just referred to. *A.* Yes, they are.

Q. Do they correctly depict the impressions that you saw there that night made by the foot of that ladder? *A.* By the ladder, yes.

Q. By the ladder— *A.* But there are other impressions.

Q. There are other impressions, but particularly in reference to that; and that is what I am limiting it to. *A.* Yes.

Q. And that walk—there seems to be a board there; is that the board walk that Mrs Lindbergh referred to awhile ago? *A.* That either is or is similar to the walk that was lying—that was there that night.

Q. Well, at any rate, Colonel, there was the note and the ladder, impressions in the ground that you speak about, the child gone, police officers coming—I suppose the press soon came too? *A.* Yes.

Q. And about how many, would you say, were represented there in Hopewell that night before daybreak? *A.* I don't know; I imagine several hundred.

Q. Several hundred. So that, I take it, between the press and the police—and there were police of many organizations, weren't there? *A.* There were.

Q. I take it that there was considerable confusion and walking in and about the premises, right? *A.* Well, there was; the greatest confusion was before all of the press arrived; and while the press was there, there was a great deal of walking around outside of the house by the press which was absolutely out of control as far as the vicinity was concerned.

Q. I want to go back for a minute, please. It is quite disconnected, possibly, but I want to get back to the time in the house, and particularly when you were in the living room. As I remember it, the living room opens into the hallway, isn't that so? *A.* Yes, yes, in addition to other doors.

Q. But it does open into the hallway. *A.* With a double door.

Q. With a double door. And there are two staircases, one leading to the right and one leading to the left, isn't that so? *A.* One staircase from the living room.

Q. One staircase from the living room? *A.* From the living room. The other stair is in the back of the house.

Q. In the back of the house? Well, now, the staircase leading from the living room—could you see that? You couldn't see it unless the door was open, could you? *A.* No.

Q. Was the door open that night when you came from dinner and walked into that living room for fifteen minutes or so? *A.* Yes sir; the doors were open that evening.

Q. Were the doors open to the library from the living room? *A.* Yes.

Q. We will get back, then, again, to the scene in the home, the confusion. Mrs Lindbergh, I take it, remained in the house? *A.* I believe so, yes.

Q. Did you not also have Mr Whateley drive the car along the premises, playing his lights on the highway or on the road for a part of the way? *A.* Mr Whateley went outside. At the moment I don't recall just what his actions were. He went outside and was searching outside for a time.

Q. All right, sir. Having received this first note, did you receive another? *A.* By mail, yes.

Q. To you directly? *A.* The next one was addressed to me at our home in East Amwell township.

Q. Will you take a look at that envelope, please, Colonel Lindbergh, and this note and see if that isn't the note which you received second? *A.* This is the envelope which contained the second note and this is the second note contained in the envelope. There are some initials on there that have been put on since.

[*The note was received in evidence.*]

MR WILENTZ: Exhibit S-20 reads:

"Dear Sir: We have warned you note," (n-o-t-e) "to make anyding" (a-n-y-d-i-n-g) "public or notify the police. Now you have to take the consequences. This means we will hold the baby until everything is quiet. We can note" (n-o-t-e) "make any appointment just now. We know very well what it means to us. It is really necessary to make a world affair out of this or to get your baby back as soon as possible. To settle this affair in a quiet way will better for both. Don't be afraid about the baby. The

lady taking care of it day and night. He also will feed him according to the diet. Singture on all letters with an arrow pointing to the circles and the red dot and the holes. We are interested to send him back in gut" (g-u-t) "Ouer" (o-u-e-r) "ransom was made up for 50,000" (with the dollar mark afterwards) "but now we have to take another person to it and probable have to keep the baby for a longer time as we expected." (I want you to watch that point.) "So the amount will be 70,000" (with a dollar mark after it) "20,000 in 50\$ bills, 25,000 in 20\$ bills, 15,000 in 10\$ bills, and 10,000\$ in 5\$ bills. Don't mark any bills or take them from one serial number. We will inform you later were" (w-e-r-e) "to deliver the money". (They—h-t-e-y, the money—m-o-n-y.) "But we will note" (n-o-t-e) "do so until the police is out of this case and the pappers" (p-a-p-p-e-r-s) "are quiet. The kidnaping was prepared for weeks so we are prepared for everything."

## THIRD DAY

*Flemington, N. J., January 4, 1935.*

THE COURT came in at 10:00 A.M.

Questioning of Colonel Charles A. Lindbergh continued.

2. Now, Colonel, you were telling us about the second note that you received ; and getting away from that for the moment and returning to the home again, you said you went into the room, I think on two occasions, after which or between which, you went out with your rifle. Now will you tell us about the condition of the room with reference to whether or not there were any footprints of any kind at all in the room? *A.* There were prints on the suitcase or on top of the suitcase which was under the window on the south-east side of the nursery. There was also at least one print on the floor beneath that window and inside of the suitcase, which was on a small chest, and there was also, according to my best recollection, a print on the window sill itself.
2. What do you mean by a print, Colonel? *A.* A deposit of yellow clay, I will call it.
2. Sort of a mud? *A.* Well, mud carries more of the distinction of blackness to me ; it was a yellowish-red clay such as outside of the house beneath that window.
2. I see. *A.* The length and approximately the breadth of a man's foot. The prints were not as distinct as to be able to see the complete outline of a foot, but they were very definitely made by a man's foot.
2. So that, as I understand it then, there were these—we will call them prints—from the window sill in the direction of the crib, towards the crib? *A.* There was at least one between the window sill, at least one between the chest below the window sill and the crib, in addition to the others.
2. When you talk about the chest, I show you Exhibit S-11 and ask you whether or not the chest which appears on that exhibit right immediately adjoining the window is the chest that you refer to? *A.* It is.
2. Now, as I recall it, Colonel, you stated, too, that sometime during the evening through the flashlight one of the Hopewell officers used, you could see the ladder used in the distance? *A.* Yes.

The ladder, eventually brought into the house, had never been seen before by the witness and was not part of the equipment of the estate. A

chisel, also foreign to the estate, and a dowel pin, were also brought to his attention.

Q. Then getting back to the notes. After you had received your second note, Colonel, did you directly by mail receive any further notes? *A.* Not directly.

Q. I show you these papers and ask you whether you did receive them in some other way. *A.* This is the envelope and the notes which I received next through Colonel Breckinridge. They were sent to Colonel Breckenridge's office in New York.

Q. Following that, did you receive a telephone call from a gentleman by the name of Doctor Condon? *A.* Yes—I did not receive the call myself.

Q. Well, eventually, did you meet Doctor Condon? *A.* Yes.

Q. At your home? *A.* Yes.

Q. Do you happen to recall the date? *A.* I believe it was on the evening of March ninth, or the early morning, that is after midnight, the early morning of March tenth, to the best of my recollection at this time.

Q. And through him did you receive these notes that night or the night that you refer to as being the first night that you met him, [*showing two papers to the witness*]? *A.* Yes. Doctor Condon brought these notes to our home at Hopewell that evening. This coloring has been put on.

Q. The coloring on the envelope has been put on— *A.* Since.

Q. Since that time. And after you saw these notes, just marked for identification—S-24, S-25 and S-26 for identification, which includes the envelope—having seen them, did you then authorize Doctor Condon to continue such negotiations as he was making? *A.* Yes, I did.

Q. And following that, was there exhibited to you by Doctor Condon or somebody for him this note [*showing a paper to the witness*]? *A.* Yes.

Q. Following that, was this paper exhibited to you [*showing a paper to the witness*]? *A.* You mean next in sequence?

Q. At any time during the negotiations? *A.* It was.

Q. Also, Colonel, was this paper exhibited to you sometime during those negotiations? *A.* Yes, it was.

Q. Colonel, I show you an envelope—which I will ask the stenographer first, please, to mark so that we may refer to it. I will ask you where it was that you were when you first saw this, referring to S-30 for identification. *A.* This is part of a piece of wrapping paper. I was in Doctor Condon's residence.

Q. When it was delivered? *A.* No, when I first saw this.

Q. When you first saw it? *A.* Yes.

Q. Were you there when that envelope arrived? *A.* No.

Q. Do you recall by whom it was presented to you? *A.* It was part of a package, part of the wrapping of a package which Doctor Condon told me he had and which—well, shall I describe it?

Q. What was in the package when you got it? *A.* It contained the baby's sleeping suit.

Q. And together with that exhibit [*the sleeping suit*] and envelope was there also a note exhibited to you with it? *A.* There was.

Q. Will you take a look, please, and see if this is the note? *A.* Yes, this was the note.

Q. And this note that you refer to as being with Exhibit S-30 and with the sleeping suit coming together is Exhibit S-31 for identification. [*The note referred to was marked State's Exhibit S-31 for identification.*] I also show you another envelope addressed to "Mr Dr John Condon", dated March nineteenth, and a note with it and ask whether or not that was eventually presented to you? *A.* Yes. This was one of the notes.

Q. Then again, was there this note presented to you in the course of the negotiations? *A.* It was.

Q. I notice that at the bottom there is a blurring; was that on at the time? *A.* The symbol was on, but not these—

Q. The lines. *A.* Not the stripes.

Q. And in the course of the negotiations and somewhere in April, either the first or second of April, was there exhibited to you this envelope addressed to Doctor John Condon, being marked Exhibit S-36 for identification, containing this note marked S-37 for identification? *A.* This was shown to me very shortly before the payment of the money in St Raymond's Cemetery.

Q. Now, will you take a look at this note—pardon me, I will have it marked first for identification. Colonel, I show you S-38 for identification and ask you to look at it, read it and tell us where you were when you saw that note. *A.* I was in Doctor Condon's home in the Bronx.

Q. Do you remember the day? *A.* That was on April 2, 1932.

Q. And when you were there did that note arrive? *A.* It did.

Q. By mail or by messenger? *A.* The doorbell rang in the home; Doctor Condon went to the door and returned with this note.

Q. And you read it together? *A.* We read it approximately the same time, yes.

Q. Who else was there at the time? *A.* Colonel Breckinridge was there, and I believe Mr Reich was there.

Q. Mr Reich was a friend of Doctor Condon's? *A.* Doctor Condon's.

Q. And as a result of that note, referred to as S-38, did you and Doctor Condon then depart in an automobile? *A.* Yes, we did.

Q. And was there anyone else in the automobile? *A.* No.

Q. Who was driving? *A.* I was.

Q. This was on the night of April 2, 1932? *A.* Yes, that is right.

Q. And whose car was it? *A.* I was informed that it was Mr Reich's car.

Q. Did you have any money there with you, any sizable amount? *A.* Yes, we had \$70,000.

Q. And what did you do—in what container was it kept? *A.* It was wrapped in brown paper and placed in a wooden box.

Q. And you had the box there in the car? *A.* Yes.

Q. About what time of the night was it when you and Doctor Condon left in that automobile? *A.* Approximately half-past eight.

Q. Did you have any police protection or surveillance? *A.* Not as far as I know.

Q. You had arranged not to have it, so far as you were able to? *A.* As far as possible, yes.

Q. And you then proceeded along to what point? *A.* To a point near the intersection of Tremont Avenue and Whittemore Street, I believe it is.

Q. In the Bronx? *A.* In the Bronx, near to St Raymond's Cemetery; and we parked opposite a florist shop, on the opposite side from the cemetery.

Q. After having parked opposite that florist shop, who got out of the car? *A.* Doctor Condon.

Q. Did he then proceed directly across the street to the florist shop? *A.* We were on the same side of the street as the florist shop. Doctor Condon got out of the car and walked across the sidewalk, next to the car, and to a table in front and slightly to the side of the walk to the florist shop, and obtained another note from underneath the table.

Q. Did you see him get that note from underneath the table? *A.* I saw him walk to the table and return with the note; I couldn't see, of course, the note under the table. I understand it was under a rock.

Q. When he came back, did he come right back from there? *A.* He did.

Q. You could see that, could you? *A.* Yes.

Q. And when he came back, did you recognize this as being the paper that he had then in his possession [*handing to witness*]? *A.* Yes, it is.

Q. After this S-39 was exhibited to you, did you still remain in the same place with your car? *A.* Yes, I did.

Q. How far was that from St Raymond's Cemetery, diagonally across the street? *A.* I should say it was about two or three hundred feet.

Q. From the cemetery? *A.* Approximately.

Q. On the opposite side of the cemetery or on the same side? *A.* Diagonally across from the cemetery.

Q. Diagonally across? *A.* Yes, probably closer to two hundred, but I don't feel able to estimate that exactly.

Q. Approximately two hundred feet, anyway? *A.* Yes.

Q. And what time of the night would you say it was, Colonel? *A.* That was in the vicinity of nine o'clock.

Q. What was the condition of the weather? I mean, was it clear? *A.* Oh yes, the visibility was clear. I don't know whether it was overcast or not; I don't recall.

Q. And you remained seated in the car? *A.* Yes, I did.

Q. With the \$70,000? *A.* Yes.

Q. And Doctor Condon, then, from there, what did he do? *A.* After Doctor Condon returned to the car with the note we read the note. Then Doctor Condon walked across Whittemore to the corner of the cemetery.

Q. When you say the corner, I suppose you mean the entrance, the front entrance—or isn't there an entrance? *A.* I don't believe there is an entrance there, as I recall it now.

Q. At any rate, he went to the corner? *A.* Yes.

Q. And then what happened, Colonel? Proceed with your story. *A.* Doctor Condon, as I say, went to the corner of the cemetery; he stood there for a few minutes, then he turned around and started to walk back across Whittemore, which runs next to the cemetery. When he arrived at about the center of Whittemore, I heard very clearly a voice coming from the cemetery, to the best of my belief calling Doctor Condon.

Q. What were the words? *A.* In a foreign accent: "Hey, Doctor."

Q. How many times? *A.* I heard that voice once.<sup>1</sup>

Q. After that, Colonel, what did the doctor do? *A.* Doctor Condon immediately turned, walked back toward the corner of the cemetery where he had been and before quite reaching the same location he turned and hurriedly walked down Whittemore Street on the cemetery side.

Q. Yes sir. Then I suppose he was out of your sight? *A.* Yes.

Q. Did he return soon thereafter? *A.* He returned, I should say, in approximately ten minutes. It was very difficult for me at that time to estimate time.

Q. I see, and when he had left you originally you still had the money? *A.* Yes.

Q. All right. When he came back did you give him the money? *A.* I gave him part of the money, \$50,000 to be exact.

Q. You didn't give him the seventy? *A.* No.

Q. At whose suggestion, as between you and Doctor Condon, was the \$20,000 omitted *A.* At Doctor Condon's.

Q. He said all he needed was the fifty? *A.* Yes.

Q. And so who took the \$20,000 out of the box? *A.* I did.

Q. And you gave him the box with the \$50,000? *A.* With the fifty.

Q. Will you please describe as best you can the box in which this money was contained? *A.* It was a wooden box, hinged at the back with

<sup>1</sup>In his opening, the attorney general had said the words were spoken twice.

one or two clasps in front, of metal, giving the outside appearance of brass. The box was oblong in shape, not quite large enough in every dimension to hold the money which was put in, and it was slightly cracked, due to forcing the \$50,000 into the box.

Q. Fifty or the seventy? *A.* Well, it was cracked, really, putting the fifty in, because that was in a different package than the additional twenty. The entire seventy was in there originally.

Q. And what were the dimensions, as best you can remember, of the box? *A.* Why, it was according, it was made according to the dimensions given in one of the notes—I do not recall the exact dimensions. It was about the width, just slightly more than the width of a bill. It was, I should say, twelve or fourteen inches long, maybe sixteen, and probably seven or eight or nine inches in height.

Q. And what were the denominations of the bills that remained and the denominations of the bills that were taken out? *A.* The bills left in the box were of twenty-dollar, ten-dollar and five-dollar denominations. The ones that were taken out were of fifty.

Q. Then, of course, the doctor left with the money, did he not? *A.* He did.

Q. And how soon did he return? *A.* I should say again in from ten to fifteen minutes.

Q. And when he returned did he deliver to you this note? *A.* Yes, he did.

Q. Of course when he returned with that note he did not return with the money? *A.* He did not.

Q. Then I take it you went back to where—the Bronx? *A.* From there we started back toward Doctor Condon's home.

Q. By the way, he didn't have the box either, did he, if you noticed? *A.* No.

Q. When he came back? *A.* No.

Q. You say you started toward Doctor Condon's home? *A.* Yes.

Q. All right. Will you proceed, Colonel? *A.* Before arriving there we stopped long enough to read the note which you have just shown me. Then after arriving at his home, as I recall, I made arrangements to obtain a plane to fly over the area designated in the note. And I left Bridgeport about daybreak.

Q. Bridgeport, Connecticut? *A.* Yes, about daybreak the following morning.

Q. What time did you leave for Bridgeport from New York and the Bronx, as nearly as you can remember, and how did you go there? *A.* We went by car.

Q. Who went along? *A.* As I recall now, we did not leave directly from Doctor Condon's house, but stopped in New York City on the way. Colonel Breckinridge went, and Mr Irey.

Q. Who is Mr Irey? *A.* He is chief of the Internal Revenue Department at Washington.

Q. And who else? *A.* Doctor Condon and myself.

Q. At any rate, next morning about what time did you take off in your plane? *A.* We left shortly after daybreak in an amphibian from Bridgeport.

Q. How long were you in the air in your plane? *A.* I believe several hours; I haven't the exact time, but we flew up over the area described in the note; we landed up there and spent a considerable time looking over the sea harbors in that vicinity.

Q. What was the purpose of your mission in the plane? *A.* We were looking for the boat described in the note which you just showed me, and to see if we could find any location of my son.

Q. And after approximately two hours— *A.* We were gone, I believe, longer than that, because we landed there, as I recall now. We did not return until after noon.

Q. Did you pilot the plane yourself? *A.* I did.

Q. And during those hours you searched the waters in that vicinity for the boat that you hoped had your son on it? *A.* That is correct.

Q. Your search, of course, was in vain that time? *A.* It was.

Q. Did you make another effort in a plane to locate the boat that was supposed to be the one that you were looking for? *A.* I did later.

Q. When—that same day? *A.* No, it was a day or two forward.

Q. I see. And who went up with you that time? *A.* At the moment I don't recall who was in that plane.

Q. You piloted that plane? *A.* I did.

Q. How long were you up on that occasion? *A.* I believe for several hours again.

Q. And again that search was in vain? *A.* Yes.

Q. And that was sometime in April? *A.* That was in April, during the early part.

Q. On the night of April 2, 1932, when you were in the vicinity of St Raymond's Cemetery and prior to delivering the money to Doctor Condon and you heard a voice hollering, "Hey, Doctor," in some foreign voice, I think, as you referred to it—since that time have you heard the same voice? *A.* Yes, I have.

Q. Whose voice was it, Colonel, that you heard in the vicinity of St Raymond's Cemetery that night, saying, "Hey, Doctor"? *A.* That was Hauptmann's voice.

Q. You heard it again the second time where? *A.* At District Attorney Foley's office in New York, in the Bronx.

Q. Now, coming back again to Hopewell, after April second, of course Colonel Breckinridge, your adviser and friend, remained at Doctor Condon's home? *A.* He was at Doctor Condon's home on several occasions after that and I believe quite regularly for some time after April second.

Q. And were you still awaiting word of the whereabouts of your son? *A.* Yes.

Q. And finally on May 12, 1932, were you called back to Hopewell?  
A. Yes, I was.

Q. When did you get to Hopewell? A. I believe it was after midnight that night, but during the night of May twelfth to May thirteenth.

Q. Now, Colonel, on that night, somewhere around midnight, you say you returned to Hopewell; and did you visit a morgue in Trenton?  
A. On the following day I did.

Q. By the way, in March 1932, when was the last time you saw Charles A. Lindbergh, Jr? A. On the Sunday evening preceding the first of March. That would be in February 1932.

Q. And from that time on, did you ever see that child alive again?  
A. I did not.

Q. Did you see the child at all again? A. I saw the child's body.

Q. When? A. On the thirteenth of May 1932.

Q. You saw that body in a morgue in Trenton? A. Yes.

Q. So that you did not get the money back and did not get your child?  
A. I did not.

*[The witness concluded his testimony by describing the child as active and normal in every respect.]*

*Cross-examination by MR REILLY*

The witness denied he was a peace officer of the State and denied carrying arms in court. Mr Reilly then examined him concerning any possible hostility to him on the part of neighbors.

Q. Do you recall, Colonel, whether or not there was a road on some of the property you purchased that you had to close off, a wood road?  
A. Close off? I do not believe we closed any road on the property.

Q. Did the people around there that had access to and fro and across your estate have the same access after you had built your place?  
A. Why, as far as I know, they did. I requested in one particular instance that the neighbors have the same access.

Q. Did you ever hear of any hostility to you in that neighborhood prior to the kidnaping? A. No.

Q. When did you first occupy the house, Colonel? A. We first lived there in the fall or early winter of 1931.

Q. The baby had already been born, had it not? A. Oh yes.

Q. Prior to that you lived at Englewood? A. We had rented a home, near Princeton, outside of Princeton, prior to that, and we had also lived at Englewood previously.

Q. And when it came time for you to furnish your house with servants, Colonel, where did you obtain your butler from? A. Well, we already had obtained a Mr and Mrs Whateley when we were living at Princeton, or near Princeton, and they moved over to Hopewell when the house was constructed, over to the house in East Amwell.

Q. And from what agency did you get the Whateleys, do you recall?

*A.* I don't recall the name of the agency. I recall talking to Mr and Mrs Whateley at the time, in my office.

*Q.* Were they engaged before Betty Gow? *A.* Yes.

*Q.* Did they come from the same agency that Betty Gow came from?

*A.* I don't believe that Miss Gow came from an agency. She was recommended to us by one of the people at the Morrow home in Englewood who had known her.

*Q.* What I am getting at, Colonel, is this: what investigation did you make of Whateley before you hired him as your butler to take into your home? *A.* I talked to him.

*Q.* Beyond that, did you go any further? *A.* Beyond that, I never go any further.

*Q.* You didn't know anything about his background? *A.* I think that may have been looked into. Personally, I simply talked to Mr and Mrs Whateley for half an hour or an hour.

*Q.* And he is one of the parties that, since this kidnaping, died? *A.* Yes, he died.

*Q.* How long after the kidnaping did he die? *A.* The winter of 1932 or '33 he was stricken with peritonitis; he was in the house in East Amwell.

*Q.* He was taken to a hospital? *A.* Taken to a hospital in Princeton.

*Q.* How long did he live before he died? *A.* Several days.

*Q.* And, of course, I suppose you took Mrs Whateley along at the same time, employed Mrs Whateley at the same time you employed Whateley? *A.* Yes.

*Q.* You talked to her too? *A.* Yes.

*Q.* She is still employed in some way in the family? *A.* She is.

*Q.* The next person in the house on the night of the kidnaping was Miss Gow? *A.* Yes.

*Q.* You say you obtained her services from somebody that you knew in the neighborhood? *A.* She was recommended to us by one of the people who was working at Englewood in the Morrow home.

*Q.* Did you make any effort to learn her background? *A.* I don't know. That may have been done. I personally only talked to her. Mrs Lindbergh may have looked into her background.

*Q.* Did you know she had two brothers? *A.* No.<sup>1</sup>

*Q.* Did you ever know she had two brothers? *A.* I haven't paid very much attention to that. It seems to me I have heard she had one or two brothers since then.

*Q.* Since then had you learned that she had a brother who was in trouble in the State of New Jersey? *A.* No.

*Q.* Have you learned she has a brother in Canada? *A.* I am not sure she has a brother at all.

*Q.* Did you make any effort to find out if she had a brother? *A.* No.

*Q.* At the time of this kidnaping did you not want to find out the ante-

<sup>1</sup>Miss Gow had two brothers, but they were never out of Scotland.

cedents and background of everybody in the house? *A.* That was thoroughly done by the police.

*Q.* By you? *A.* I placed my confidence in the police organizations.

*Q.* Did you not make any effort as a father to find out the background of the people that were in the house the night your child was snatched away? *A.* I placed my entire confidence in the police and followed their suggestions from that time on. I tried to co-operate in every way I could.

*Q.* Well, Colonel, as a man of the world, you certainly must have known that some of the police are not infallible, did you not? *A.* I think we have very good police.

*Q.* You also think that we have first-class Department of Justice agents? *A.* I think our federal departments are good.

*Q.* Is it not a fact, Colonel, that down to this date not one federal agent of the United States government has ever seen these ransom notes? *A.* Oh no, I don't believe that is so. No. I know that is not a fact.

*Q.* Do you remember the federal men coming to your estate shortly after this kidnaping? *A.* Yes, very well.

*Q.* Did you keep them in the garage or did you give them access to the house? *A.* The heads of the department had complete access to the house and we turned the house over at the request of the police and the Department of Internal Revenue.

*Q.* Is it not a fact that this investigation from the day it started, or the minute it started, has been in the hands of the state police of the State of New Jersey under Colonel Schwarzkopf? *A.* I believe that is the organization of authority, but the Internal Revenue Department has been in complete knowledge of what went on during the earlier periods, because I attended conference after conference in the home at Hopewell, in which the heads of one to three of the departments were present.

*Q.* Colonel, will you be good enough to point out to the jury how a person would walk from the nursery to the kitchen without coming down the front stairs? *A.* Through the doorway into the hall—

*Q.* Well then, Colonel, in full view of the jury will you be good enough to trace the course of a person's journey through your home from the nursery to the kitchen, down the servants' staircase? *A.* This is the nursery. Go through this door into the hall, along the hall, to the back hall, down these stairs, coming out just outside of the kitchen here.

*Q.* Now, Colonel, was there on that night a door leading from the kitchen out into some yard, or roadway, and if so, will you point to it? *A.* Not directly. There is no door directly leading.

*Q.* Well, how would you get from the kitchen out into the back yard or the garage? *A.* That would be past these stairs, then you could go—then you would go through this door here into the garage and out one of the garage doors.

Q. And that would lead into the rear part of the house? *A.* That would lead into the—what you might call the parking space outside the garage, that would lead in there.

Q. Now, did you examine that parking space that night for any footprints? *A.* No. There would be no use, because that is covered with a loose gravel.

Q. The question is, did you look, Colonel? *A.* No.

Q. I understood your wife to say that it was the habit to spend week ends at Hopewell. Is that correct? *A.* On and off, not always.

Q. Well now, had you spent the previous week at Hopewell or at Englewood? *A.* No, I believe that was at Englewood; it was not at Hopewell.

Q. When did you decide to come back from Englewood that week to Hopewell? *A.* Well, prior to the week end or after the week end.

Q. This particular week end—let's go back to about the twenty-fifth, the twenty-sixth, the middle of the week, you were then at Englewood, is that correct? *A.* In the evening, yes.

Q. Now, do you recall when you decided to go back to Hopewell? *A.* No, I don't recall the day, what day that was, at the moment.

Q. Did you keep servants in your place at Hopewell while you were at Englewood? *A.* Mr and Mrs Whateley were there.

Q. Would they always know when you were coming back? *A.* Not always.

Q. Miss Gow was with the baby—is that correct—in Englewood? *A.* During that week.

Q. Well, finally, you did arrive back at Hopewell; is that correct? *A.* Yes, we spent that week end at Hopewell.

Q. Now, on this particular week end you decided to stay in Hopewell on Monday; is that correct? *A.* My wife and my son stayed in Hopewell on Monday and I went to New York.

Q. Well, wasn't it unusual for you to stay there on a Monday? *A.* I went to New York on Monday.

Q. No. I mean the family to stay there. *A.* They stayed there because the baby had a cold.

Q. Now, how many people knew the baby had a cold and that the baby was going to stay in your house on Monday? *A.* I doubt that anybody knew that on Monday, because, as I recall, there was some question as to whether my wife might not come to Englewood on Monday. I don't believe that we knew that ourselves Monday morning, as I recall now.

Q. So that if the family followed their usual course that Monday, they would have returned to Englewood? *A.* Well, if you say usual course—we had only been there—the house was newly built and we had been there only a few week ends, so there was no established precedent as to what our movements were.

Q. But your movements were in the knowledge of your butler and your

butler's wife and your nursemaid; is that correct? *A.* Not completely, no. Miss Gow was in Englewood on that Monday and she did not know until my wife called her, I think, I believe Tuesday; that is something that I can't testify to—what date my wife called her. I understand she didn't know what we were going to do until she was called.

*Q.* You went to New York on Monday; is that correct? *A.* I went to New York on Monday.

*Q.* Did you stay overnight in New York on Monday? *A.* At Englewood.

*Q.* At Englewood Monday night? *A.* At Englewood.

*Q.* And the family stayed at Hopewell? *A.* At Hopewell.

*Q.* Did anybody know outside of your wife that you were going to stay Monday night in Englewood? *A.* I didn't know that myself until late that evening, because I had been working late and I had planned on going back to Hopewell; but in order to avoid the distance of the drive and be in New York the next day reasonably early, I stayed in Englewood instead of going to Hopewell, as we often referred to it as our residence.

*Q.* How did you communicate with your wife that you would not be home Monday night? *A.* I believe that I called her that evening by phone.

*Q.* Did you talk to the butler? *A.* He might have answered the phone; I don't remember that.

*Q.* But he would know that you were not coming home Monday night after you finished talking to your wife, wouldn't he? *A.* He probably would. I can't say definitely, but I think probably.

*Q.* And Mrs Whateley would be very likely to know—she was the cook, wasn't she? *A.* It is quite probable.

*Q.* But the outside world would not know that you were coming home Monday night, would they? *A.* Very few people would know that.

*Q.* Very few people would know that you were going back to New York again on Tuesday, would they, Colonel? *A.* Very few people know what I do.

*Q.* Yes. So that a person in the outside world or a gang on the outside world on Tuesday, March the first, would have no knowledge as to where you were? *A.* Well, that depends upon their organization.

*Q.* It wouldn't depend on any information you gave, would it? *A.* Well, not with knowledge.

*Q.* Now, will you give us an outline of your movement on Tuesday? *A.* Tuesday I was in New York during the day.

*Q.* Where? *A.* I don't recall in vivid detail where I went. I think I went to the Pan-American Airways offices, probably to the Trans-continental Air Transport offices. I was at the Rockefeller Insti-

tute during a part of the day and I believe that I stopped at my dentist's that afternoon late, to the best of my recollection.

Q. When and to whom, Colonel, did you give your first indication that you were going to return that night? *A.* As I recall, I called my wife; I telephoned my wife.

Q. Did the butler answer? *A.* Well, it is very likely, but I don't recall that. Very likely he did.

Q. In very well-conducted homes, the butler answers the phone? *A.* We never regarded Mr Whateley as a butler. We needed someone to take care of the place there and it just happened—it would depend on who would be closest to the phone, but it is quite probable that he answered the phone.

Q. Do you recall what time of the day or evening you phoned Hopewell and said: "I am coming home"? *A.* Well, it was in the evening or late afternoon, probably not more than two or three hours, I should think, before I started.

Q. And did you arrive at about eight, or a little after? *A.* It was approximately eight twenty-five.

Q. Colonel, did you have any dogs? *A.* We had one at Englewood at that time.

Q. Now, the dog that you had at Englewood, was that a dog that was attached to your son? *A.* No, not particularly.

Q. Was it a dog that you had purchased for him? *A.* The dog was given to me by my mother. We had not purchased it, nor was it given particularly with the baby in view.

Q. Was it given after the baby's birth? *A.* I am quite sure that it was —yes.

Q. What kind of a dog was it? *A.* A little fox terrier.

Q. They are very affectionate dogs; you found this dog to be affectionate, it knew every member of the household? *A.* Why, reasonably so; a fox terrier, of course, is a very high-strung—

Q. Very nervous? *A.* Very nervous, yes.

Q. A good watchdog? *A.* I would not say that he particularly was a good watchdog.

Q. At any time that night, between the time you arrived for dinner and the time you discovered your baby was missing, did you hear the dog bark? *A.* I don't recall hearing the dog bark that night. I understand that he did sometimes, but that was not a regular thing.

Q. Did you see any indication from that dog that there was anybody prowling around the house? *A.* No. But I would not expect any from that dog.

Q. Anyhow, the dog was around and you have no recollection now that the dog indicated there was anything unusual about the house? *A.* No, I have not.

Q. Now, of course, Colonel, following the evidence as it has been given by you and by Mrs Lindbergh, there was some indication that the

young son was recovering from a cold; is that correct? *A.* He had a cold that week end.

*Q.* You did not visit his nursery when you entered the house, did you? *A.* On the evening of March first I did not.

*Q.* I am talking about that particular evening. You first came in and greeted your wife; is that correct? *A.* Yes.

*Q.* You came in through the garage entrance, I will call it? *A.* Yes.

*Q.* After greeting her, I believe the testimony is that you went upstairs and washed up; is that correct? *A.* To the best of my recollection I went upstairs and washed before sitting down to supper.

*Q.* Yes. How close was the washroom to the baby's nursery? *A.* It was adjoining the nursery through a short hall.

*Q.* Did you see Betty Gow on that floor at that time? *A.* Not as I recall.

*Q.* And you did not enter the nursery? *A.* No.

*Q.* And you heard no noise from the nursery? *A.* No.

*Q.* No suspicious noise? *A.* No.

*Q.* That was a little after eight? *A.* I arrived home about eight twenty-five.

*Q.* I don't want to tie you down; we will put it in the neighborhood of eight o'clock. Then you went downstairs and, as has been indicated, you entered the dining room? *A.* Yes.

*Q.* And this would be the main staircase in your home [*indicating*]? *A.* This is the main staircase here [*indicating*].

*Q.* And that led to the baby's nursery? *A.* It led to the hallway.

*Q.* The hallway leading into the nursery? *A.* Past the nursery.

*Q.* Will you point out, please, in what part of this dining room you sat? *A.* The table was about in the center of the room.

*Q.* Now the door—I have never been in your home—I assume that the door leading from the pantry to your dining room is easily accessible for anybody serving food, and it swings, doesn't it? *A.* I think it is a swinging door.

*Q.* So the way you sat in the dining room you could not see your main hallway, could you? *A.* No.

*Q.* Nor could you see any servants' staircase? *A.* No.

*Q.* So that you were then at a part—we will put it this way—set apart from the upper part of the house? *A.* Well, we were in a different room.

*Q.* Nor did you hear at that time anything suspicious from the nursery? *A.* No.

*Q.* Where was Miss Gow? *A.* I don't know that definitely; I think she was probably in the—between the kitchen and the sitting room in the back.

*Q.* Colonel, while you were in the dining room, if the front doorway of your home was opened by someone, anyone could have gone up the

stairway of your house and taken the baby out of the crib, couldn't they? *A.* I don't think so.

*Q.* It would have been physically possible, would it not? *A.* I think it would be very improbable that that could be done without our hearing it.

*Q.* Never mind whether it would be improbable or not, would it be physically possible?

MR WILENTZ: Well, just a minute, never mind the never minds.

THE COURT: Well, the Colonel is asked whether or not it was possible. Now, the Colonel may express an opinion about that, and I suppose that is what Mr Reilly wants him to do.

MR REILLY: Yes.

THE WITNESS: Can I answer yes or no, your honor?

THE COURT: Well, the question is, I believe, would it be possible in your judgment for any person to enter the house from the front doorway—is it, Mr Reilly?

MR REILLY: Yes.

THE COURT: And take that baby out in that fashion.

*A.* I don't think so.

MR REILLY:

*Q.* Why, because they would have to ring the bell? *A.* The door did not open easily. There was no door closed between the dining room and the front door of the house. There was no carpet on the stairway. I don't think it could have been possible for anyone to come in through that door without our knowing it.

*Q.* Then would it be possible for anyone in the house, used to the house, who knew the house, to take the baby out of the crib and bring it down the main stairs? *A.* Without opening the door?

*Q.* No. Bring it to the front door. *A.* And open the door?

*Q.* Or bring it to a window. *A.* Answering your question directly, it might have been possible.

*Q.* Let's take the other course, Colonel; if there was disloyalty in your home would it be possible for a person acquainted with the home to take the baby out of the crib and descend the servants' staircase and hand it to someone in the garage yard while you were dining? *A.* Well, again, answering the question directly, it would have been possible for someone in the house to take the baby out of the crib, as far as I know.

*Q.* When, after you left the dining room, did you first see Miss Gow? *A.* The first time I remember seeing her was in the vicinity of ten o'clock when I was reading in the library and she came down and asked me if I had the baby.

*Q.* So that the message that the baby was missing was brought to you by Miss Gow? *A.* Yes.

*Q.* And that was the first time you had seen her that night? *A.* I think I had seen her before that, that night; but, knowing she was there,

I don't recollect definitely where I saw her, but I think that I saw her and Mr and Mrs Whateley as I came into the house. I am quite sure that I did.

Q. You came in the kitchen way? A. Yes.

Q. Were they in the kitchen? A. My recollection is that I saw all three, either in the kitchen or the parlor next to the kitchen, which is marked there "Dining Room", that evening. But, of course, as I said, it is routine.

Q. Is that their dining room? A. Yes.

Q. You saw them in their quarters? A. I am quite sure that I did, all of them.

Q. Now, during the time you were in the dining room you heard no suspicious sounds? A. No.

Q. Then as I recall the evidence, you returned to the library? A. To the living room next to the dining room.

Q. How long did you stay in the living room before you sat down and started to read? A. I should think about roughly ten minutes.

Q. Is that the same room that you were sitting in, or did you pass into a library? A. Could I show you on the chart?

Q. Certainly. A. [Referring to chart.] We were having dinner in the dining room here. This is the back dining room. We were having dinner in this dining room. After dinner we returned to the living room and sat on a settee that was about in this position.

Q. So that—not interrupting you, Colonel—while you are still there with the pointer, where were you sitting on that settee? You could not see the front entrance hall of your home? A. We could see—we probably did not see it. The only part you could see would be in there.

Q. Yes. But you did not see the front entrance hall? You could not see the front entrance hall? A. You could see this part from where you sat.

Q. That other part, the main doorway? A. No.

Q. And of course it would be impossible to see the servants' staircase? A. Yes.

Q. How long did you and Mrs Lindbergh remain on that lounge? A. I should think about ten minutes.

Q. Then where did you go, Colonel? A. Then we went upstairs to our bedroom.

Q. That was adjacent to the nursery, wasn't it? A. The bath between.

Q. And you did not enter the nursery? A. No, I did not.

Q. And you heard nothing suspicious? A. No.

Q. That would bring you in the neighborhood of nine o'clock? A. That would be a little after nine, I believe.

Q. Were all the lights on in the house? A. The house was fairly well lighted. I don't know whether—they couldn't have all been on.

Q. Was it fairly well lighted? *A.* Yes.

Q. The indication to anybody passing by the house would be that from the light there was somebody there and it was inhabited? *A.* Yes.

Q. Now, did you at any time go to any of the windows of that house to indicate that you were in that particular room? *A.* No, but I think—I think it would have been possible to see in from the outside, because we did not have curtains in the house.

Q. In the course of this investigation that has gone on since then, Colonel, have you ever heard it said that you were to be the one that was to be kidnaped?

*[Objection by the prosecution was sustained.]*

Q. At the time the house was built, Colonel, do you know whether or not your telephone wires were laid underground in piping? *A.* The telephone wires were brought from approximately a telephone pole's length . . . into the house; so that the wires coming into the house were underground, but, for, I should say, seventy-five or a hundred yards, something like that.

Q. Did you ever have any indication while you lived in your house that the wires were being tapped? *A.* No.

Q. Colonel, will you be good enough to point out the window of the nursery you believe your child was taken through? *A.* The south-east window upstairs. *[Indicating on diagram.]*

Q. Did you see this window you have indicated here open that night? *A.* That window was closed.

Q. Was it underneath the closed window that you say the ladder marks were found? *A.* It was, slightly offset, about here. *[Indicating on diagram.]*

Q. Now, did anyone indicate to you in your household that night that they had ever locked that window? *A.* No, it wasn't the custom to lock windows.

Q. And was it known to Betty Gow that that window was not locked generally? *A.* I do not know. I suppose so.

Q. And to the two Whateleys? *A.* I suppose so.

Q. Had any strangers visited your home within the week before the kidnaping? *A.* Not as far as I know, but I wasn't there except during the week end.

Q. Had strangers, so far as you know, ever been in your nursery? *A.* Not so far as I know.

Q. In sitting in the library, reading and approximately, we will say, in the neighborhood of nine-thirty and ten o'clock, you heard some sound? *A.* Between those times, approximately.

Q. You heard a sound? *A.* No.

Q. You didn't hear any sound at all? *A.* Not reading in the library.

Q. Well, where was it that you heard these sounds? *A.* As of falling wood?

Q. Yes. *A.* That was after we came out of the dining room and were

sitting on the settee in the living room, as we call it, about here, and that would be, I should say, shortly after nine o'clock.

Q. Now, did that sound like a book falling off a table or something like that? *A.* Oh no.

Q. Did it sound like something snapping? *A.* It was the sound of wood on wood.

Q. It didn't sound like a tree, a branch breaking off? *A.* Not in the least.

Q. By wood on wood, did it sound like striking two pieces of wood together? *A.* I should say more than two. There is a single sound with two. At the time I didn't pay great attention to it, but it entered my mind at the moment that it was like the boards on a crate falling together off of a stand or a chair.

Q. Did you have any lumber around the house? *A.* Well, there was lumber, yes, outside, possibly in the basement there were boards left from construction.

Q. Was there any lumber in your library? *A.* Not that I recall. I don't think there could have been; it doesn't seem to me there could have been because the library was furnished—we had books in the library and desks.

Q. As far as you can recall, do you recall whether or not there was a piece of wood in the library about twelve or fourteen inches long? *A.* I don't recall any.

Q. Now, did you investigate this sound, Colonel? *A.* At the time, no.

Q. And it didn't come from the nursery, did it? *A.* Well, I don't know definitely where it came from.

Q. Well, don't you think, Colonel, that if it did come from the nursery, and you heard it, that your first inclination would be to dash upstairs to see how the child was? *A.* There was nothing in the nursery that would make that.

Q. But, I mean, if it did come from that general direction, don't you think you would have dashed upstairs to see how the child was? *A.* If I had thought it was in the nursery, I would have gone up.

Q. It didn't come from that direction? *A.* I don't know that you can say it came from that direction, as I recall. I spoke to my wife about it and the words I used to my wife were, "What is that?" Then I rather dismissed it from my mind.

Q. You didn't ring for any servant and ask what happened? *A.* I inquired later whether anything had fallen in the kitchen; not at the moment.

Q. Before you went upstairs? *A.* No—after.

Q. Now, the first indication then, as we have it, from your testimony, that your child was missing was when Miss Gow announced it? *A.* Yes.

Q. Then you went upstairs, and, as you told us, the bedclothing was in

the form of a semicircle under which—— *A.* Well, approximately. It held the general contour that it would have had with the baby in the bed, in the crib.

*Q.* The baby had never been contacted much with strangers, had he? *A.* No, only friends.

*Q.* Only friends. You lived more or less of a reserved life, and the child was known to you, of course, and to Mrs Lindbergh, and to Betty Gow, and to the Whateleys and possibly to his grandmother and the relatives in Englewood; is that correct? *A.* Yes, and the people in Englewood and some friends.

*Q.* There were no tradesmen handling your child? *A.* No.

*Q.* He wasn't getting to the milkman in the morning to play with or the groceryman, or anything like that, so that the child would become accustomed to strangers; is that correct? *A.* No, he was not.

*Q.* Now, you heard no cry from the nursery of the child, did you? *A.* No.

*Q.* And that child was sick, recovering from a cold; is that correct? *A.* Recovering from a cold, yes.

*Q.* Its little breast had been rubbed with Vicks? *A.* I understand so.

*Q.* Now, Colonel, was it the child's habit to awaken during the night? *A.* Well, the baby awakened at times on different occasions, I know, but whether——

*Q.* Well, was there a feed—there wasn't any feeding now at twenty months, was there? *A.* A feeding period? I think he was given something about, around ten o'clock.

*Q.* But after that, was he a child that woke up maybe two or three o'clock in the morning and whined a little bit and somebody had to go in and pet him a little bit or give him something to eat? *A.* Well, we were pretty careful not to do that under ordinary conditions, I believe.

*Q.* He was being taught to go to sleep and stay asleep? *A.* I believe so; I cannot answer that as well as my wife could.

*Q.* He was under control. Now, you heard nothing as it approached ten o'clock from the child, we will say the usual hour that he received his added refreshment; did you ever hear any indication from the child when you were home before ten o'clock came that it was hungry and summoned Miss Gow by a little cry or a call? *A.* Well, not that I recall. Undoubtedly that has happened, but I do not recall at what particular period.

*Q.* Didn't you think it unusual, Colonel, for a child suffering from a slight cold to be put to bed before half-past seven or eight o'clock, and nobody entering the nursery to look at the child until the alarm? *A.* No. As a matter of fact, we made a particular point to try to leave the baby alone as long as he was sleeping well, and

unless something woke him up so that there was some sound, it would be our wish, I know, that no one disturb him during that time.

Q. I wonder, Colonel, if you can again give me your recollection of the alarm and just what you did when you entered the room? *A.* I was reading at the desk in the library about ten o'clock. . . . The desk was next to the window, in this corner, facing this way [*indicating on diagram*]. . . . I was sitting at the desk for, I should think, twenty minutes or half an hour, probably.

Q. That desk, that window that you pointed out there, is directly under the window, is it not, through which you say the baby was taken? *A.* Yes.

Q. And you heard no noise, did you? *A.* Not at that time.

Q. Nothing but the howling of the wind blowing through the trees, is that all, the usual night noises? *A.* No unusual noise.

Q. Did you know whether Miss Gow that night had been busy in the kitchen making a masquerade costume? *A.* Not that I know of. That might well be without my knowing it.

Q. Did she enter the library, the room you were in, and ask you whether you had the baby or not? Was that the way the alarm came? *A.* She came down the stairs and asked me if I had the baby.

Q. The front stairs? *A.* The main staircase.

Q. Then of course you went right upstairs? *A.* I asked her if he was not in the crib, and I immediately went upstairs into the nursery.

Q. Were you there, Colonel, when these photographs were taken? *A.* Well, I saw photographs taken; I don't know whether those are the photographs or not.

Q. Some were taken? *A.* I saw photographs taken that night, but whether these were the ones I am not sure.

Q. It indicates here, does it not, a radiator top? *A.* Yes, that is the top of a radiator.

Q. Colonel, do you recall whether or not on the bottom of this lowest sill of the window there were any marks of any kind? *A.* To the best of my recollection, there was a clay print there on top of the radiator, lattice.

Q. I am talking now about the window itself. *A.* On the sill outside, or where do you mean?

Q. Inside. *A.* That is inside.

Q. I mean on the window. There is the radiator. I am talking about this part, the framework of the window. *A.* I don't recall seeing any.

Q. Were there any marks on the outside of the window at all? *A.* I did not look.

Q. Did you look the next day? *A.* No, I did not. The police had covered that the next day.

Q. You did not swing out the window the next day and just examine the window from the outside, by sitting on that radiator top, as

you could have, and pull the window down and look it all over, did you? *A.* I don't think I did the next day. I looked out there later, but I am not sure it was the following day or not.

*Q.* You did not see any marks? *A.* No, I do not recall seeing any marks on the window. I think there was a mark beside the window, apparently where the top of the ladder had been.

*Q.* I am talking about the window itself. *A.* No, I saw no marks.

*Q.* As far as you can recall, that window catch was always left off, is that right? *A.* We did not make a practice of locking windows, and I don't believe that they had ever been locked, as far as I know.

*Q.* Would anybody in the world, outside of a member of your household, know that it was not your practice to lock that window or to lock your windows? *A.* I don't know. The shutter on that window, of course, was warped outside, so that we could not lock the shutters on that particular window that night.

*Q.* Did anybody try to lock them? *A.* I think my wife tried to lock them that night and found that they were warped.

*Q.* How long had they been warped? *A.* I think for quite a few days, but there again, I am not certain.

*Q.* Had any word been sent to a carpenter to come and fix that window? *A.* No, the house was too new.

*Q.* Was there any other shutter of your house warped to your knowledge? *A.* Not as far as I know. There were no others that we attempted to close. There may have been.

*Q.* Was there any shutter outside of the casement window? *A.* There was.

*Q.* Was that closed that night? *A.* To the best of my recollection, it was.

*Q.* Could the noise you heard be the slamming of that shutter against the house? *A.* I don't think so.

*Q.* Now, assuming that the shutter was drawn in by your wife, and even though it did not catch, a person would have to take hold of that shutter to throw it back to get at this window, wouldn't they? *A.* I imagine they would have to use something, either hand or instrument to touch it.

*Q.* Well, if it was loose, you wouldn't need an instrument, you would just take your hand and throw it back? *A.* You could move it, of course, with an instrument.

*Q.* Or with your hand? *A.* Either one.

*Q.* And you would have to move two parts, wouldn't you? It was a divided shutter, wasn't it? *A.* It was a divided shutter, yes.

*Q.* You would have to move it right and left? *A.* Yes.

*Q.* Then a person going up a ladder to reach this window, Colonel, if the shutters were closed, would have to have the ladder far enough to the right to swing the shutters open, is that correct? *A.* I don't

know that; whether that would be a correct assumption or not, I don't know.

Q. Well, if he had the right-hand side of the ladder up against the shutter, he wouldn't be able to get off the ladder, would he? *A.* I am not sure; I think that he might.

Q. Did you have any ladders around there? *A.* Yes, there was a painter's ladder, I think, in the garage, as I remember now, or rather a double ladder—you call it a painter's ladder.

Q. Was it tall enough to reach that window? *A.* Oh yes, a double extension ladder.

Q. And was it there that night? *A.* As I recall, it was in the garage. I am not absolutely certain of that. I think it was in the garage that night.

Q. Now, how long had you had that ladder? *A.* It probably was purchased—well, it may have been purchased for the other house that we had rented, but I think it was purchased the previous summer.

Q. Was your garage locked? *A.* No, I don't think so.

Q. Never locked? *A.* I don't recall locking it at all.

Q. Of course the butler had access to the garage? *A.* Oh yes.

Q. Now, there were other servants who had access to your estate, weren't there, Colonel, some servants from the Morrow estate? *A.* Well, at the moment I don't recall any of them being there; they might have been.

Q. They had been there at different times, hadn't they? *A.* Not as far as I recall; they may have been there, but I don't recall it, except that the chauffeur from the Morrow home had been there.

Q. Yes. Didn't they have a Danish chauffeur by the name of Ellison? *A.* Yes.

Q. Was he in the habit of driving over to your place? *A.* I don't know how many times he had been there, but either he or Mr Burke had been down there before, I believe.

Q. Ellison is no longer chauffeur on the estate, is he—he is a watchman at the gate, isn't he? *A.* Recently he has been watching the gate.

Q. Do you know whether or not he is a Scandinavian or of Danish extraction, Colonel? *A.* No, I don't, but I think that might well be.

Q. Well, do you know, Colonel, that on that night he drove from the Morrow estate with an unknown person to the locality of Hopewell, New Jersey? *A.* No. I believe he took Miss Gow down that day.

Q. Where? *A.* To Hopewell.

Q. What other servants did they have at that time, Colonel, that you can recall? *A.* I do not think I can name them completely, I am sure.

Q. Did they have Violet Sharpe? *A.* Yes.

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Q. What were her duties there? *A.* She was a maid in the house.

Q. Did she visit your home? *A.* I don't think she was there prior to March first.

Q. Did you ever know that she was in the habit of going out with Whateley? *A.* No.

Q. What they did in their off moments, you didn't know much about, you didn't concern yourself with, is that correct? *A.* I did not know anything about that at all. I do not know.

Q. Do you recall any other servants that the Morrows had? *A.* Yes, there—would it be proper just to read a list? It would make it very much easier.

Q. I do not know who they were, Colonel. I wish I did. Did they have any gardeners? *A.* Yes.

Q. Did any of their gardeners do your landscape work? *A.* I don't think they did the original landscape work; they worked, naturally, on the landscaping after it was done; I do not know of their taking part in the original landscape work. I would not know that.

Q. Do you remember the names of any of the men who worked on your house when it was being built? *A.* Mr Matthews was contractor, of Princeton, and Delano and Aldridge, architects.

Q. Well, did they employ any local people? *A.* I believe they did, yes, quite a few, but the names I would not know.

Q. Did you ever have any difficulty with any of those workmen? *A.* Not in the least, no sir.

Q. Was your house wired against burglars? *A.* No.

Q. Now, if you will be good enough, Colonel, to take these photographs of the nursery, maybe you can point out different things that I will ask you. I would like to know, Colonel, approximately how many ordinary footsteps with an ordinary person there would be between the bottom of this window, indicated on State's Exhibit 12, to the edge of the baby's crib? *A.* Well, could I use the map for that?

Q. Yes, or you could tell us from looking at this room and your recollection. *A.* Well, I would rather use my recollection if I could. I should think the minimum of three and probably a maximum of four, the way I would walk.

Q. Can you recall, Colonel, you say there was a yellow smudge on the radiator top? *A.* Well, there was some clay there of such a nature—that is, with a width and length that would indicate quite definitely a footprint—on the radiator; to the best of my recollection there was, on top of the suitcase and on the floor below, and I believe on the radiator top.

Q. Now, was the footprint directly underneath this suitcase, as though somebody had stepped down from the suitcase? *A.* Oh no, as though somebody had stepped down from the suitcase; it may not

have been directly opposite the center, but it was directly underneath.

Q. This suitcase, Colonel, was made of what kind of material? *A.* I don't know what that is made of.

Q. Fabric of some kind? *A.* Well, it is covered with probably some type of fabric and whether the inside is plywood or whether it is some fiber of some kind I am not sure.

Q. Was it filled with anything? *A.* I don't know.

Q. Did you open it to see? *A.* No, I didn't, but I feel sure that that is available.

Q. In your opinion, Colonel, a man weighing your weight, or we will say, anywhere from a hundred and seventy-five to a hundred and ninety pounds, stepping on that suitcase—wouldn't he immediately crash through the suitcase? *A.* I don't think so.

Q. It wasn't made of steel, was it? *A.* No. But coming down from a window, I don't think that he would go through it.

Q. A man stepping in from a window would have to more or less balance himself, wouldn't he? *A.* He would be able to hold on to the window, two parts of the window.

Q. But if he was coming in, in a hurry to grab a baby and get out of that window as quickly as possible, he wouldn't be looking where he was stepping, would he? *A.* I think he would hold on to something getting down there.

Q. Would he hold on until somebody else in the room handed him the baby? *A.* Of course, I don't know that.

Q. Will you tell us just where in that room the footprint on the floor was? *A.* That was below the suitcase.

Q. Was it quite definite? *A.* It was definite enough to be a footprint, but not definite enough to get an exact length and width from it.

Q. Did you see any measurements taken of it at all? *A.* No, but I don't know how that could be measured. It is like stepping in mud or dust and then on a hard surface: it doesn't give a full imprint of your foot.

Q. Did anybody sift it, any police officer sift it with powder and then photograph it? *A.* I don't know.

Q. Did you ever hear of the existence of such a photograph? *A.* Not that I recall.

Q. Now, will you be good enough to tell me here, Colonel, if you can, assuming this to be the window, where that first footprint was on the floor, please? *A.* I probably cannot do that within a foot, say. If the chest was here with the case on top, that footprint would be about here. [*Indicating.*]

Q. There were no footprints that you saw between that and the crib? *A.* Not that I remember now.

Q. Was anything disturbed in the room? *A.* I left orders for nothing to be disturbed.

Q. As you entered the room did you notice anything unusual about the room? *A.* Primarily the bedclothes in the crib and, either the first or second time I went in, the note on the window.

Q. What was Betty Gow's condition? *A.* Why, when she called to me and asked me if I had the baby her voice was quite excited.

Q. Was she hysterical? *A.* No.

Q. Was she crying? *A.* I do not believe so.

Q. And yet from all indications before that, she was greatly attached to the child, and the child attached to her? *A.* I believe so, yes.

Q. Colonel, where do you say you first saw this note? *A.* The note was lying on the window sill.

Q. Was it in an envelope, Colonel? *A.* Yes, it was.

Q. Is this the envelope? I see it has been split. *A.* I think it is the envelope. I am quite sure it is the envelope.

Q. Now, with a desire to preserve any fingerprints that were on this note, you allowed it to remain there until Kelly, of the police, arrived; is that correct? *A.* Trooper Wolfe first moved that note.

Q. Did he handle it? *A.* No.

Q. Did you warn him? *A.* I had warned him and he moved it with the blade of a knife.

Q. So that you did not see any fingerprints of Wolfe on it? *A.* Oh, he did not touch it with his hand.

Q. And when Trooper Kelly arrived, did he sift it for fingerprints? *A.* He went over it for fingerprints, yes.

Q. Did he find any, so far as you know? *A.* No, there were only smudges.

Q. Well, did he preserve the smudges? *A.* There was nothing to preserve; there were no marks or lines on it.

Q. Now, when do you say you first discovered these indentations in the soft ground which you connect with the ladder? *A.* That was when I went around the east side of the house with chief of police from Hopewell; Mr Williamson and Mr Wolfe, to be exact. They had—one of them had a flashlight which he was throwing around on the east side and we saw there the ladder and we also saw the indentations next to the house where the ends of the ladder had been in the mud.

Q. How far away from the house would you say the ladder had been placed? *A.* Approximately fifty or sixty feet.

Q. How much would you say this ladder weighed? *A.* Three sections, I would say, would weigh, very roughly, thirty-five or forty pounds, somewhere in there.

Q. An ungainly thing to carry, wasn't it? *A.* He could carry it under one arm.

Q. One arm? *A.* He could.

Q. But you would have to disconnect it? *A.* It was in three sections.

Q. You would have to disconnect it and fold it in three sections to carry it this way, put your arms through the rungs, take it off? *A.* I do not know how many different ways it could be carried.

Q. You did not see any indication it was dragged along the ground, did you? *A.* I do not recall that; I do not remember seeing any drag marks on it.

Q. After it had been examined by Trooper Kelly, the fingerprint man of the police, was it then retained in his possession or yours? *A.* It remained in the custody of the state police. I may have seen it again. I am not sure whether I read that note after that or not.

Q. Do you recall whether Colonel Schwarzkopf arrived that night? *A.* Oh, Colonel Schwarzkopf was there that night.

Q. Very shortly after this happened? *A.* I should say now shortly after, yes.

Q. And he very likely took possession of this note—or do you recall whether he did or not? *A.* What I do recall—that it was in Trooper Kelly's possession when I last saw it on that night.

Q. Did you tell the state police that you did not want them to investigate this case, but that you wanted to investigate it yourself? *A.* No.

Q. Did you tell the Department of Justice men to keep out of the case, that you didn't want them to investigate the case? *A.* No sir, I did not.

Q. Did you at any time during the day of March the second or March the third or March the fourth telephone any official in Washington and ask him to have the federal officers lay off the case? *A.* Oh no, no. I asked around that time for federal officers.

Q. Did you render all the aid and assistance you could to the federal officers? *A.* Yes sir.

Q. Do you know whether they saw this note or not? *A.* They did.

Q. Do you know whether any of the agents saw the note or not? *A.* I don't know whether their agents saw the note or not. I know that the heads of the departments saw it.

Q. So that we can say, with a fair degree of accuracy, that the state police took over the investigation that night? *A.* There was a conflict of authority that night, until the state police took it over, and I think it was a day or two before they had control.

Q. Who was the conflict between, Colonel? *A.* There were three police organizations, I believe, on that night; from Jersey City, I believe and also from Newark, and, of course, the New Jersey State Police, and shortly after that there were federal officers there.

Q. But since that night this case has rested in the hands of the state police, hasn't it? *A.* What day the governor placed the state police in complete control, whether it was the following day—that is, the second or third or—it was about that time, but what day they obtained complete control, I am not sure. It must have been a day or two of the beginning.

Q. Colonel, now what else did you do in connection with this case on Wednesday? *A.* Conferences during the day.

Q. Well, as a result of those conferences did you not express an opinion that it was your belief that it was a gang who had kidnaped your child? *A.* No, I don't believe so. I have spoken—I have used the word "they" in a group, without any particular reason to at all.

Q. Didn't you have a belief at one time that it was the Purple Gang of Detroit that did it? *A.* No.

Q. Then why did you get in contact with Bitz and Spitale and other members of the underworld if you didn't believe that the Purple Gang had taken your child? *A.* I didn't know what the Purple Gang was at that time. I contacted them because I wanted to exhaust every effort to bring about the return of the child.

Q. Well, in getting in contact with the men who had criminal records—Bitz had a criminal record, did he not—Spitale? *A.* Spitale? I don't know whether he did or not. That is entirely possible.

Q. Bitz, rather? *A.* I have heard that. I do not know of my own information.

Q. Who was it suggested to you that you get in contact with these people? I take it you had no former knowledge of them, did you? *A.* No.

Q. Well, who suggested that you get in touch with the underworld? *A.* That, I understand, was a suggestion to Colonel Breckinridge from a friend of his which he carried to me at Hopewell, suggesting that it was possible that through a man named Rosner we might be able to learn through underworld channels what had happened to our son if the underworld knew anything about it.

Q. Now, you will notice, Colonel, referring now to Exhibit S-19, that this envelope addressed to you was mailed March fourth, 9:00 P.M. Brooklyn, New York; is that correct? *A.* Yes.

Q. Did the police commissioner of New York City, shortly after you received this letter, March 4, 1932, 9:00 P.M., Brooklyn, New York, offer to you to cover every mailbox in the city of New York, with a police officer, to intercept any further letters sent to you from Brooklyn or from New York City? *A.* That may have been done; I do not recall it, and it was not a direct offer.

Q. What did you do, Colonel, upon receipt of this letter? [*Indicating.*] *A.* I contacted the police and—

Q. Well, did you go any place? Did you do anything— *A.* May I read the letter, please?

Q. Yes, certainly [*handing paper to witness*]. *A.* Well, about this time, I believe before we received this letter, we had made available \$50,000; and after the receipt of this letter I arranged to have \$20,000 more available.

Q. Is that the \$50,000 that was prepared in the Morgan bank? *A.* It was prepared by the Morgan bank, yes.

Q. Did you ask them to take the serial numbers or not to take the serial numbers—the bank? *A.* Originally the serial numbers were not taken. There was so little time that we did not, as I recall, think of it—when the original \$50,000 was made ready. Later the serial numbers were taken at my request and at the suggestion of various others.

Q. Without reading this letter, was this the letter that asked for \$70,000? *A.* The one I just had raised changed from \$50,000 to \$70,000.

Q. Did you go any place to contact or try to contact any of the kidnapers between March fourth and March seventh? *A.* No, I believe not.

Q. Then on March seventh, Colonel Breckinridge, or about that date, brought you S-22, consisting of three exhibits—S-21, S-22 and very likely S-23 [*handing exhibits to witness*]? *A.* That is correct, yes.

Q. Had Colonel Breckinridge's address been printed in the newspapers? *A.* Well, I don't know. I imagine it probably had.

Q. Now, after he brought you this letter, which in it mentions the Borough Hall of Brooklyn—are you familiar with that line, Colonel? It is right there. [*Handing to witness*.] *A.* Yes.

Q. Did you get the impression from this letter, S-23, that the kidnaper was operating from Brooklyn? *A.* No, not particularly. I would be very skeptical about that.

Q. Did you have any enemies that you suspected, Colonel? *A.* No.

Q. You had no enemies that you knew of in the aviation world? *A.* No, I believe not.

Q. Did you ever know a flier named Anderson—a Swede, Anderson, Bennett Field? *A.* Not to recall by name.

Q. You do not recall ever having any quarrel with a flier named Anderson while you were in the mail service? *A.* No, I did not.

Q. And you don't recall receiving any threats from any such person? *A.* No, I do not. I received none.

Q. Had you ever known Doctor Condon? *A.* I had not.

Q. Before you saw Doctor Condon, did he phone you from New York? *A.* He phoned our residence. I was not on the phone at the time.

Q. Did you ever talk to him on the phone before you saw him? *A.* I don't believe so, but that is possible.

Q. See if I can refresh your recollection. Did Doctor Condon call you on the phone from New York and say that he had received a note from the kidnapers, and after a conversation with him in which he described the symbol, then you decided that you would see him? *A.* Yes, but that conversation was not directly with me. I don't believe that even in the latter part of the conversation did I talk to Doctor Condon.

Q. Was it to your home? *A.* It was to the home, but we had an arrangement for several people to answer the phones and in some cases it was essential that they answer the phone regardless of who

was calling. That call was received by one of the people there. As soon as Doctor Condon described the symbol I was notified, but to the best of my recollection I did not talk to him by phone.

Q. Do you know anything about symbols, such as are attached to these letters? *A.* Very little.

Q. Well, since you have received these letters have you made any effort to decipher these symbols? *A.* I have thought about it considerably.

Q. Do you know anything about theosophy? *A.* Very little.

Q. Do you know that in theosophy the basis of theosophy is symbols? *A.* No.

Q. Did you know that when you came in contact with Doctor Condon, that Doctor Condon had taught theosophy? *A.* I know that Doctor Condon had been an instructor in the Bronx for many years. I didn't know what his subjects were.

Q. Didn't you think it strange that a man from the Bronx, that you did not know of, should call you up and tell you that he had a note with a symbol on it? *A.* Not under those conditions, no; something like that had to happen.

Q. When you contacted Rosner, did you give him a copy of the symbol? *A.* No, I didn't. Now, I don't know whether he had one or not. As a matter of fact, my recollection is that he had seen the symbol.

Q. He had seen it? *A.* That is my recollection at this time.

Q. Had the symbol been printed in the papers? *A.* No, not to the best of my knowledge.

Q. Who had seen it up to that time? *A.* Why, members of the New Jersey State Police, some of the members of the Jersey City and Newark police, I believe. Up to what date is this?

Q. March the ninth. *A.* Members of the Internal Revenue Department of the United States government, Colonel Breckinridge. As I say, my recollection is that Mr Rosner saw one of these letters.

Q. But Condon had never seen this symbol? *A.* Up to the time he brought the letter?

Q. Up to the time he brought this letter. *A.* No, as far as I know.

Q. Did you go any place with Condon after he exhibited this letter to you—I mean the next day? *A.* Condon stayed at our home that night and I believe that the next morning the doctor went back to his home in the Bronx but that I did not go with him. I was at his home later.

Q. Did it strike you as peculiar that an ad would be watched for and immediately answered by the kidnapers if it came from the Bronx *News*? *A.* Well, we considered all of those situations, but we also realized that after this circumstance had originally happened the sequence of the events would probably be peculiar, not according to the ordinary logic of life.

Q. Did it ever strike you that the master mind might insert an ad in the

paper and answer it himself? *A.* I think that is inconceivable from practically any practical standpoint.

*Q.* You think it is? *A.* As a matter of fact, I tried to consider it with every individual who has been connected in any way with this case, exempting no one, whether there was any connection.

*Q.* Every time after that that Condon did anything in this case that was important he always did it alone, did he not? *A.* No. Not according to the information that I had.

*Q.* Your personal contact with him . . . you drove up in the car with him, the \$70,000 . . . *A.* In that instance there was no one there but myself.

*Q.* He walked across the street, he bent over a table—— *A.* No, that was on the same side of the street.

*Q.* Even so, wherever he walked, he bent over a table, he straightened up and came back to the car and he hands you one of the same kind of notes that he handed you in Hopewell? *A.* Under the table he got a note, yes.

*Q.* But you did not see him pick it up? *A.* I couldn't.

*Q.* He walked over, bent down and straightened up and came back, and there it is; is that right? *A.* He had the note and he returned.

*Q.* He took your \$70,000 away? *A.* Fifty.

*Q.* Fifty thousand? *A.* Yes.

*Q.* He did not take seventy and bring twenty back, did he? *A.* No, he told me to take out twenty.

*Q.* He went away and had a conversation with somebody; is that right? *A.* That is what he told me, yes.

*Q.* That is what he told you. He comes back and says fifty thousand is enough. Condon alone? *A.* Right.

*Q.* He comes back and he says, "Fifty thousand is enough"; Condon takes the \$50,000, goes some place, comes back and says, "I have given it to somebody"; correct? *A.* Well, those are not his words, but in general that is correct.

*Q.* No. Alone? *A.* Yes, he went alone.

*Q.* How many of these notes did he produce after this one? *A.* After which?

*Q.* After the one he delivered from Colonel Breckinridge to you, if you recall the number? *A.* I don't think I could say the exact number offhand; I know the sequence and the contents pretty well, but I am not sure of the number.

*Q.* Now did Doctor Condon tell you that he was in contact with a gang or expected to make contact with a group? *A.* No. He told me the man that he contacted spoke of others.

*Q.* The man he contacted spoke of others? *A.* Yes.

*Q.* And that led you to believe that it was a group? *A.* It didn't lead me to believe very much, but there seemed to be no reason why it shouldn't be.

Q. As I recall your testimony, you were in Doctor Condon's house one night and the bell rang? *A.* That is correct.

Q. He went out of the room and he went to the door. *A.* Yes.

Q. He came back and he had another one of the notes. *A.* Yes.

Q. With the symbol? *A.* Yes.

Q. But there was nobody who saw him receive the note; rather, you didn't see him? *A.* No, I stayed in the back of the house.

Q. That is it. After that, how long after that was the drive with the money? *A.* How long after that did we start?

Q. How long after the receipt of the note? *A.* We started, I think, within ten minutes probably of the receipt of the note.

Q. That note called for the immediate payment within thirty minutes of \$50,000, didn't it? *A.* That note didn't mention the amount, but at that time the amount was understood to be \$70,000.

Q. Within thirty minutes? *A.* It was within a short time. I am not certain whether it was thirty minutes or forty-five or whether it simply said to go directly to the cemetery, but it was a limitation, a definite limitation as to time. We had to leave at once.

Q. Colonel, did Doctor Condon know you were coming to his house that night? *A.* I believe he did.

Q. Had he asked you to come that night? *A.* Well, he asked me to come any time. Whether he asked that night—I think he would expect me that night. I am pretty sure he would.

Q. He expected you that night, didn't he? *A.* I am quite sure he did.

Q. And did he expect you to bring the money that night? *A.* Well, he knew the money was available. We had been told by note to have the money ready. He knew the contents of the notes and he knew that we planned on going, on following the notes, so I think that he probably knew that we would bring the money that night.

Q. Well then, who knew besides Doctor Condon that you were going to be at his house that night? *A.* Well, members of the police at our residence, members of the Federal Agency.

Q. All government agencies knew? *A.* No, I don't say all government agencies. The Internal Revenue, for instance, knew that; and the Internal Revenue had been assigned by President Hoover to work on this case at that time.

Q. Well, excluding government agencies, what individual knew, first that you had the \$50,000? *A.* Well, the New Jersey State Police officials.

Q. Outside of them, Colonel? *A.* My wife, Colonel Breckinridge, Doctor Condon and a Mr Reich undoubtedly by that time.

Q. Well then, the only two strangers outside of your official group and those whom you trusted, who knew anything about the fact that you had \$50,000, the serial numbers were taken, and they were available, were Condon and Reich? *A.* Well, we hardly con-

sidered them strangers by that time, but they knew about the money.

Q. They were outsiders to you until this unfortunate occurrence? *A.* I had not known them until then.

Q. So, if you had the \$50,000 in the bank of Morgan, in its vaults, already set aside there for safekeeping—— *A.* No, I arranged through Morgan, through the Morgan bank, to have that \$50,000 made up, or the \$70,000, and for some time that was in our residence in Hopewell for assignment, I believe it was, in a branch of the Corn Exchange Bank in the Bronx, and on the evening of March ninth I myself took the \$50,000 to Doctor Condon's—on the evening of April second, to Doctor Condon's home.

Q. Did he ask you to? *A.* No, Doctor Condon had always questioned the payment of any money without positive identification.

Q. Did he ask you to bring the money that night? *A.* I don't recall his ever asking us to bring money.

Q. What induced you to bring the money to Doctor Condon's house within an hour or so before he received this mysterious note at his door? *A.* The previous note told us to do that.

Q. To be ready that night? *A.* Yes, yes.

Q. Of course, you didn't take any guards with you at all, did you? *A.* When I went with Doctor Condon? No.

Q. You had no police around at all? *A.* No, not as far as I know. I believe not.

Q. Now, when you got to Doctor Condon's, did he ask you if you had the money? *A.* I do not recall his asking that, but we had it in the package there.

Q. You had it in this box? *A.* No, we put it in the box at his home.

Q. Where was the box built? *A.* Doctor Condon had the box built.

Q. He had it built according to the instructions of the letter that Colonel Breckinridge delivered which—— *A.* I would have to see the letter, the sequence.

Q. It is S-25 [*handing the exhibit to witness*]. I am showing you S-25, Colonel, that is one of the letters Condon delivered to you at Hopewell, is that correct? Am I correct Mr Attorney General? *A.* That is one of the letters that Doctor Condon showed us at Hopewell.

Q. And that letter contained the directions how to make the box? *A.* The dimensions of the box, yes.

Q. And Condon left this letter with you, didn't he? *A.* I am not sure whether he left it that night or took it back.

Q. Took it back with him, you think? *A.* I am not sure whether he took it or left it.

Q. If he took it back, did you get it from him again? *A.* Oh yes.

Q. Before the payment of the money? *A.* I am quite sure that we had

that letter before the payment of money, if he did not leave it that night.

Q. Did you ask Condon, or did he volunteer to build the box? *A.* Colonel Breckinridge was the person in direct contact with Condon. We all knew of the dimensions stated in this letter here. As to the exact sequence of the box being built, I am not sure, except that it was according approximately to the dimensions in the letter.

Q. Colonel Breckinridge was with you the night you went up with the money? Did he stay in Condon's house? *A.* Colonel Breckinridge was in Condon's house when we left the house, yes.

Q. And this money was in packages and was taken out and placed in this box in Condon's house? *A.* In one large package and one small, \$50,000 in the large package and \$20,000 in the small.

Q. The \$20,000 was not in the box? *A.* Yes, it was in the box until Doctor Condon told me to take it out at the cemetery.

Q. Now, what time did you leave Doctor Condon's house? *A.* I should think about approximately quarter after eight.

Q. Was it at your request that Colonel Breckinridge stayed behind? *A.* I don't believe there was any question of his going, because we tried to carry on our contact with as few men as possible; it was easier to move with fewer people.

Q. Did anybody suggest that Reich, Condon's friend, be left home? *A.* Well, I suggested that I drive the car that night.

Q. Did Condon know that the bills, the serial numbers, had been taken by that time? *A.* I don't know.

Q. Well, you were about to make payment; did you ever tell him, did he ever ask you whether the serial numbers were taken? *A.* Well, he knew the numbers were taken, but it is practically impossible for me to go back and know the time when he knew that.

Q. I didn't ask you that. Did he know before the payment was made? *A.* I am not sure whether he knew it before; it may have been after that. I am not sure of that.

Q. Now, where did you stop after you left Doctor Condon? *A.* We went directly to the spot designated in the letter that he had received that night. I drove on Tremont a little beyond that spot and turned around, making a U turn, and came back and parked opposite the flower shop mentioned in the letter.

Q. And then he walked across down the street and came back with this? *A.* No, the—as I say, we parked opposite the flower shop, then there was a concrete walk that went from the car across the sidewalk to the door of the flower shop, and a table under which the instructions were that the note would be was just to the right of the walk, next to the flower shop.

Q. Was that flower shop open? *A.* No, no, the door at that time, I believe, was closed.

Q. And how close was that to Doctor Condon's home? *A.* Well, I think it took us a little over half an hour to drive.

Q. Was the money passed at the cemetery that night? *A.* Yes.

Q. Then he came back to the car? *A.* Yes.

Q. When did you first come in contact with Curtis? *A.* Mr Curtis came to our residence in East Amwell township either the latter part of March, or the first of April, I believe. My recollection now is that the first time he came there was the latter part of March. I am not certain of that.

Q. It was his idea that he should get in contact with the people that had your child by going out on a boat; is that correct? *A.* That was one of his ideas.

Q. The baby was supposed to be on a schooner or some kind of a boat operated by bootleggers? *A.* It is very difficult to outline all of the suppositions that he made; it would take a long time; that was one of the ideas that he had.

Q. But he always gave you the impression that he was more or less—that he thought he could get in connection with those people who had your child? *A.* Well, he said he thought he could.

Q. Yes. And that was your purpose in going out on that boat? *A.* My purpose in going out on the boat primarily was that I knew that either Mr Curtis was lying or he had been in contact with these people he claimed had shown him ransom bills which he had checked against the list.

Q. Did he have some? *A.* Oh no, but I investigated through various people in Norfolk his reputation and they seemed to think that it was good enough so that I couldn't afford to overlook his statement.

Q. Well, what did he say about the ransom bills—that he had seen some? *A.* Among other things he said that he had seen some and that he had checked numbers.

Q. Did he bring you any number that checked against the bank list? *A.* He brought nothing that was of definite identification.

Q. Well, Colonel, is it not a fact that you had a distinct reason for believing Mr Curtis had been in contact with the people who kidnaped your child, either directly or indirectly, with the people who had possession of your child? *A.* To obtain the truth of that situation is a fairly long story. I had no—

MR REILLY: May I have the question answered yes or no?

THE COURT: What is the question?

[*The reporter read the question.*]

THE COURT: Well, there seems to be an assumption of fact in that question which the record does not justify, Mr Reilly. You are assuming that these people that Colonel Lindbergh was contacting with had possession of this child. There is no evidence of that.

MR REILLY: No, but it was his belief. You see, taking the indictment as we stand here on the statements that have been made by the

attorney general that this defendant is the kidnaper and stands alone as the kidnaper and killer, I believe on cross-examination I have a right to find out whether or not Colonel Lindbergh was not of the belief as recently as the Curtis trial that it was a group of people and that he has only swung around to this belief against the defendant since the apprehension of the defendant.

MR WILENTZ: If your honor please, may I just respond to that? Counsel has not asked Colonel Lindbergh's belief at the present time and does not know it.

MR REILLY: He has already testified.

MR WILENTZ: I do not understand that to be the fact.

THE COURT: You now want to inquire as to Colonel Lindbergh's belief at that time?

MR REILLY: Yes.

THE COURT: Well, is that objected to?

MR WILENTZ: I don't object to it provided, your honor, please, he will also ask him his belief now.

MR REILLY: I think that has been testified to.

MR WILENTZ: Let him give us both.

MR REILLY: He testified that on direct.

THE COURT: Let Colonel Lindbergh answer it.

MR WILENTZ: Go ahead, Colonel. *A.* May I have the question read, please?

MR WILENTZ: As I understand it, we want the Colonel's beliefs then and now as to who he thought had the child. Will you please answer that, Colonel? *A.* Pardon me, I was asking for the question to be reread.

MR WILENTZ: As I understand it, it is modified now so that you give your belief then and now; what you believed then and what you believe now.

MR REILLY: That was the suggestion of his learned honor.

THE COURT: Yes.

MR REILLY: Colonel, I will ask you, as suggested by the Court, and I assume that your answer will be that the defendant, you believe now, is guilty of the kidnaping; is that correct?

THE WITNESS [*To the Court*]: Shall I answer?

THE COURT: Yes. *A.* I do.

*Q.* Colonel, irrespective of the Curtis trial, did you ever have the belief that Curtis was connected directly or indirectly with the group of persons who had kidnaped your child? *A.* I did, with reservations.

*Q.* Did you testify at the Curtis trial in answer to this question, page 47:

"*Q.* Colonel, the last date you mentioned at Norfolk was May sixth. What happened after you came in the last time when you could not make any contact?"

"A. The question came up at that time as to what course to pursue. I could offer no distinct reason for believing that Mr Curtis had not been in contact with these people, and, according to the information he had given me, in my mind he certainly was either in contact directly or indirectly with the people who had been in possession of our child. I felt that it was essential to devote every effort to find out who these people were and if possible to bring about a return of the baby, and if not, bring about their apprehension."

A. Yes, but I found out later that he was not telling me the truth.

Q. Did you testify that way? A. Yes.

Q. Now you say, do you not, or do you say that you also believed at some time that the Purple Gang of Detroit were in possession either directly or indirectly of your child? A. No, I never believed that.

Q. Colonel, did you ever have \$50,000 placed at or near a plane ready to be sent to Detroit, to contact the Purple Gang? A. No, I had \$50,000 available, but I never came anywhere near the point of sending that to Detroit or anywhere else, except where it went.

Q. Was that a second \$50,000? A. I am not clear on that. There were two packages at one time for purposes of quick movement which I had arranged to have available. As I say, with the exception of the actual payment, there was no question of sending any anywhere else; that is, no question that came anywhere near to action.

Q. Colonel, were you in the Morrow home shortly before the suicide of Violet Sharpe? A. Yes.

Q. Had she been questioned by the police before that? A. I understand she had.

Q. Did you know that she and the butler had been very friendly? A. No, but, being in the home, I suppose that is probably true.

Q. Did you know that they were friendly outside of the home? A. I would be surprised if they were.

Q. Did you suspect Violet Sharpe of any connection with this case? A. I did not.

Q. Well, is it not a fact that she had been questioned by the state police, that they subsequently came back to ask her some more questions and that she went upstairs after their presence was announced to her, and committed suicide? A. She committed suicide. I do not know whether it was prior to being questioned or not.

Q. Weren't they in the lower hall and didn't they ask that she be brought downstairs for requestioning, and when that message was sent upstairs to her, didn't she drain a phial of poison? A. Well, she took poison. She had been questioned by others at Englewood and Hopewell by the police; she probably would be questioned again; it may be she was notified she would be questioned again. I am not clear on that.

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Q. Well, one of the servants in the Morrow home was known as Johnson? *A.* No.

Q. And afterward identified as Red Johnson? *A.* No.

Q. Well, was he a visitor there, so far as you know, in servants' quarters? *A.* I understand he had visited.

Q. Do you know whether or not he was friendly with Violet Sharpe to the extent of taking her out? *A.* No, I don't know that.

Q. You do know, however, that he was apprehended by the United States authorities, do you not, because he was illegally in this country? *A.* That is my understanding.

Q. And you know that that warrant was withdrawn, do you not, by orders of Washington, and he was permitted to leave the country voluntarily and he is now in Denmark or Sweden? *A.* Well, I understood that he went abroad; I did not know or I do not recall being told that the order for his deportation was ever withdrawn.

Q. Betty Gow was not in this country at the time of the arrest of Hauptmann, was she? *A.* No.

Q. She has been brought back here? *A.* She has come back.

Q. Do you know of any effort that has been made by the State to bring back Red Johnson? *A.* So far as I know the question never came up.

*[The witness was excused without redirect examination.]*

### CHARLES E. WILLIAMSON

#### *Direct examination by MR WILENTZ:*

The witness said he was a police officer of Hopewell. He received a telephone call from the Lindbergh home shortly before 10:30 P.M. on the night of March 1, 1932, and called Chief Wolfe of the Hopewell police, whereafter he and Wolfe went to the Lindbergh estate. Colonel Lindbergh met them at the door and had a rifle in his hand. He went directly to the nursery with Chief Wolfe and Colonel Lindbergh. He saw dirt tracks leading from the window towards the crib. The southeast window was closed, but the shutters were open. Outside the house, using a flashlight, he discovered the imprints made by a ladder, beneath the nursery window, and some footprints.

On May 12, 1932, the witness said, he accompanied the chief to a spot pointed out by William Allen, and discovered the body of the Lindbergh child. He identified clothing produced in court as having been on the body.

#### *Cross-examination by MR REILLY:*

He did not call a fingerprint expert, did not measure or preserve any footprints.

## ELSIE WHATELEY

*Direct examination by Mr WILENTZ:*

The witness and her husband were employed by the Lindberghs in March 1932. The employment was with the stipulation that they should have the same day off, together, each week.

*Q.* Was that agreement adhered to? *A.* Yes, it was. I would like to state here, if I may, that my husband was not in the habit of taking Violet Sharpe out. *[Laughter.]*

**THE COURT:** This confusion and laughter is getting to be a kind of nuisance. Unless it is stopped I shall have to have the courthouse cleared. If people want to remain here and give the Court a reasonable opportunity to try the case, they will have to keep quiet. . . .

**MR REILLY:** There was a voluntary statement on the part of the witness I would like to have expunged from the record and I would like to have her instructed only to answer questions.

**THE COURT:** Of course that is irresponsible and must be stricken out, and the jury is instructed to disregard it.

The witness described her care of the Lindbergh child during the forenoon of March 1, 1932, her ministrations including rubbing him with a medicated ointment. Betty Gow arrived at Hopewell about 1:20 P.M., driven from Englewood by one of the Morrow chauffeurs. Violet Sharpe was never employed at Hopewell.

In the afternoon the witness played with the child from 4:00 to 4:30 P.M. and then had tea. About 5:30 P.M. Betty Gow took the baby to the nursery "and that is the last I saw of him." Colonel Lindbergh arrived home while the witness and Betty Gow were having supper, she thought about eight-twenty. The Colonel and Mrs Lindbergh spoke with the servants in the kitchen and then had dinner. At that time Betty Gow was reading in the servants' ground-floor sitting room. About 9:00 P.M., Mrs Whateley and Betty Gow went upstairs to Mrs Whateley's room, because the witness had bought a dress and wanted to show it to the nurse-maid.

*Q.* And you went up to your room then? *A.* Yes. And Mr Whateley went into our sitting room; he said he would read and he went in there and he sat reading. We stayed in my room, and we had been there a long time and Betty looked at her watch and she said: "It's ten o'clock; I must go to the baby."

*Q.* About how long do you think—how much time did you spend in that bedroom of yours? *A.* As near as I can tell you, it was about an hour, from nine till ten.

*Q.* So that you were with Miss Gow pretty nearly every minute from about a quarter to eight, when she came down from the nursery? *A.* I was.

Q. Until about ten o'clock, when she said she was going back to the baby's room? *A.* Yes sir.

Q. Except for very short intervals, your husband was in your presence? *A.* Yes, he was.

Q. During the day do you recall the operation in which this baby's shirt was knitted together or sewed together? *A.* Well, the only thing, Miss Gow came down to me and asked me if I had any white thread. I didn't have white. I did it with blue.

Q. What sort of a blue thread was it? *A.* Well, it was blue Silco. I brought it from England.

Q. Will you take a look at this blue silk, Silco, and tell me whether or not that is a part of the spool of thread— *A.* It is.

Q. And was it from that spool and that Silco that you provided that Miss Gow sewed the baby's sleeping shirt that day? *A.* Yes, it was.

Q. Did you see her do it? *A.* No, I didn't see it, but I saw her cutting it out.

Q. Mrs Whateley, I show you a—I am not very good at this sort of thing, but I take it this is the gown that you referred to—is this the gown? *A.* Yes, it is.

Q. And it was the same sort of blue silk thread, or Silco, that you refer to, that was given to Miss Gow and also used in this gown? *A.* Yes, it is.

Q. Now, prior to going upstairs, was there any falling of any crate in the kitchen? *A.* No.

Q. Did you hear any crate, or did you see any crate fall in the kitchen? *A.* No.

Q. Did anything at all fall there? *A.* No.

Q. Now, about ten o'clock, when Miss Gow left you, did you leave the room too? *A.* Yes, I went along to Mrs Lindbergh's room.

Q. What happened there? *A.* Well, I spoke to her. Do you want me to tell you what happened?

Q. Yes, please. *A.* Well, she had a slight cold and she asked me if I would get her some lemon water and take it up to her. So I came out of the bedroom and as I came out, I met Betty and she asked me if Mrs Lindbergh was in there and I said yes. And she said, "I wonder if she wants to see the baby. I am just going in." And I said, "Well, if she wants to, she is going through the other way, because she has gone through that door." So I went downstairs and Betty went back into the baby's nursery. And I went downstairs and I told Mr Whateley what I was going to do. And he got up and he put the kettle on, and I got a lemon out and I just—

Q. You were about to make hot lemonade? *A.* Yes. And just as I was cutting the lemon through, Betty came down and asked Mr Whateley if he would go up to Colonel Lindbergh; he wanted him, as the baby had gone.

Q. What is that? I don't understand you. *A.* Betty came down and she asked Mr Whateley if he would go up to the colonel, as the baby had gone and he wanted him. So he went upstairs and I asked Betty what she meant, and she said: "Why, Elsie, the baby is gone." And I left her and went up and saw Colonel Lindbergh and my husband standing at the top of the stairs, and I said to the colonel: "Where is Mrs Lindbergh"? And he said: "In there." He pointed to the baby's nursery. And I went in and she was standing by the crib and I stood by her.

Q. When Betty Gow said to you the baby was gone, in what tone of voice or manner of voice was it that she indicated it to you? *A.* Well, she was terribly upset, of course.

Q. You came down, finally, I suppose, all of you? What did the women of the household do thereafter? *A.* Well, Mrs Lindbergh and I went into her room and I asked her to get dressed and I helped her to dress, and then Mrs Lindbergh and I started to search the house and the colonel and my husband went outside and searched around there. Then finally we came down and went into the living room and sat there.

Q. Who sat there? *A.* Mrs Lindbergh, Betty and I.

Q. Alone, the three of you alone? *A.* The three of us alone.

Q. What did you do there? *A.* Well, we didn't do anything, just simply sat.

Q. What was Mrs Lindbergh doing? *A.* She was just sitting there.

Q. Did you talk? *A.* Not much.

Q. Quite silent? *A.* Yes.

Q. Tell us something about it; you see you were there, you will have to help us. *A.* Well, she didn't say anything in the living room. As I was going around with her she said: "Oh, God."

Q. What time of the night was that? *A.* It was about ten-thirty o'clock.

Q. Then did you leave the room? *A.* We both came downstairs together and also Betty came downstairs, the three of us.

Q. The living room that you occupied during that time, where was that, on the second floor? *A.* No, it was on the ground floor.

Q. By the way, some mention or reference was made to a dog in the house. Was there a dog in the house that night? *A.* Yes, there was.

Q. What sort of a dog was it? *A.* A terrier, an English terrier.

Q. Was he a barking dog or a quiet dog? *A.* Well, I always thought he was sharp; if he heard a noise he would bark, as a rule, but the wind was so bad that night you couldn't hear anything. . . .

Q. Do you know in what room the dog was between the hours of seven-thirty and ten o'clock? *A.* Yes, he was in our sitting room, in his basket.

Q. That is on the extreme westerly side of the house, directly opposite from the extreme easterly side of the nursery? *A.* Yes.

*Q.* That is, the nursery being upstairs . . . and your living room being downstairs? *A.* Yes.

The witness testified her husband died in May 1933 of peritonitis, and that he was attended by Dr Belford, of Princeton, being ill four days.

*Cross-examination by MR REILLY:*

At no time during the evening did the witness hear the child cry. She denied her husband ever knew Dr Condon prior to the kidnaping, and denied knowing Violet Sharpe intimately (just to say "good morning to her"). She and Betty Gow were out of the sight and presence of her husband for about an hour on the night of March first (from 9:00 P.M. to 10:00 P.M.). Her husband died while she was on a trip to England. He had always been a healthy man.

## FOURTH DAY

*Flemington, N. J., January 7, 1935.*

**T**HE CRIER OPENED the Oyer and Terminer Court.

MR WILENTZ: Miss Betty Gow.

### BESSIE MOWAT GOW

*Direct examination by Mr WILENTZ:*

The witness had been in the employ of Colonel Lindbergh since February 25, 1931, as nursemaid. Prior to that she had worked for a Mrs Sullivan, of Englewood, and prior to that in the Whittier Hotel, at Detroit. On Tuesday, March 1, 1932, she was at Englewood, but at about 11:30 A.M. was notified by telephone to go to Hopewell. She had no expectation of going to Hopewell until she received the telephone call. She arrived in Hopewell about 1:20 P.M. and had lunch, finishing about two o'clock. At 2:30 P.M. she went to the baby's nursery, dressed him and played with him for a while. Mrs Whateley joined her in the nursery, and a little later her attention was called to the window by Mrs Lindbergh's throwing pebbles at it.

Q. Now, that was until about what time that Mrs Whateley came up?

A. I imagine about four o'clock.

Q. Now, at four o'clock, from that time on, will you please recount the events?

A. Yes. Mrs Lindbergh came indoors after her walk, came up to the nursery and said she was going to have tea downstairs; would I bring the baby down. I said yes, of course, and took the baby downstairs, I imagine about five o'clock, to where she was sitting in the sitting room, and left the baby with her, and joined Mrs Whateley in our sitting room for our tea.

Q. That is, you left the baby with Mrs Lindbergh and you and Mrs Whateley went to have your tea?

A. Yes.

Q. While Mrs Lindbergh had tea and had the baby with her?

A. Yes. About quarter of six, I should say, the baby came running into the kitchen, ran around the table several times and spoke to Elsie. I took his hand then, took him upstairs for supper. I left him in his room for, oh, one minute, about as long as it took me to get his cereal from the kitchen. Came upstairs again; gave him his supper. He hadn't quite finished his supper when Mrs Lindbergh came into

the nursery and she stayed with me then while we got the baby ready for bed. We undressed him and just as he was about ready for bed I decided to give him some physic. In taking this he spilt some over his night clothes.

Q. He didn't like the physic? A. No. I undressed him again and decided that I would have time to make him a proper little flannel shirt to put on next to his skin. I didn't have sewing materials there, so I asked Mrs Lindbergh while I went out of the room to get material from Mrs Whateley, whom I thought would have some. Went down to the kitchen, where she gave me scissors and said she would look for thread and bring it to me. I went back up to the nursery. Mrs Lindbergh played with the baby while I cut out this little shirt. Mrs Whateley came into the room with the thread and I stitched it up very hurriedly and put it on the baby after rubbing him with Vicks.

Q. Now, Miss Gow, right there, you say you got some material from Mrs Whateley? A. Not material, the thread.

Q. Where did you get the material? A. In the baby's room.

Q. And you then sewed a sort of improvised nightshirt? A. Yes.

Q. And that was the part of the clothing that you put next to his skin? A. Next to his skin.

Q. And can you tell from this piece of clothing which I give you whether or not any of this was the garment that you used by looking at it? A. Yes, this is the exact garment that I used.

Q. When you say S-29 is the exact garment that you used, do you mean that that is a part of the cloth that you used? A. Yes.

Q. The rest of it you used for the baby's shirt? A. Yes.

Q. Now I show you Exhibit S-13 and ask you whether or not you have seen this since the finding of the child's body? A. I have.

Q. And what is S-13? A. This is the exact little shirt I made for the baby that night.

Q. And was that shirt worn by that child that night when it was taken out of that house? A. It was.

Q. Miss Gow, I show you another piece of cloth and ask you whether or not this piece of cloth has any relationship at all to S-13, which is the baby's shirt that you just referred to? A. Yes, it has.

Q. Now what relationship is there between S-30, which is the piece of cloth I just exhibited to you, and the baby's shirt, which is Exhibit S-13? A. It has a seam scalloped edging; it fits exactly there, as I cut it out.

Q. It fits exactly in the shirt and that is where you cut it out? A. Exactly.

Q. And it was a part of that cloth? A. Yes.

Q. Would you mind, please, Miss Gow, showing just where that does fit? Take your time, please, and will you take this piece of cloth and exhibit to the jury just where it fits?

[*Witness holds a new piece of cloth alongside of the worn garment of the Lindbergh baby under the armpit.*]

Q. Now, will you just indicate it to the Court?

[*Witness does the same before the Court.*]

Q. You were talking about the thread that Mrs Whateley had given you that day. I show you Exhibit S-28, a blue Silco thread, and ask you whether or not that is not the type of thread that was given to you by Mrs Whateley that day, and which you used; isn't it the thread that you used in making and sewing the baby's shirt, S-13? A. It is.

Q. Now, in addition to that shirt, what else did the baby have that night as you dressed it for bed? Did it wear any overshirt over that, the one you have just described, S-13? A. Yes, he wore a little woolen shirt over that.

Q. And was that a regular woolen shirt that it had? A. Yes.

Q. I show you Exhibit S-14 and ask you whether that is the woolen shirt? A. That is the shirt.

Q. So that first it had S-13 on, the shirt that you hastily improvised, and then you had S-14, the other shirt? A. Yes.

Q. Did it have over that a sleeping garment or sleeping suit? A. In addition to that he wore diapers, a rubber covering on top of that, then a sleeping suit. And on the sleeping suit a thumb guard in each hand.

Q. Now, did you affix the thumb guard? A. I did.

Q. Will you tell us how you affixed it? A. The metal part over his thumb, the tapes around the wrist of his sleeping suit twice, tied in a knot.

Q. I show you Exhibit S-16 and ask you whether or not that is one of the thumb guards, the metal thumb guard which you affixed to one of the thumbs of this child on the night of March 1, 1932? A. It is.

Q. I notice that it is knotted. Is that the knot in which it was tied that night? A. That is the identical knot.

Q. It hasn't been untied or unloosened? A. No.

Q. Now when you would affix this metal thumb guard and you would tie it, I take it you would tie it around the sleeping garment? A. Yes.

Q. Quite securely? A. Quite securely.

Q. Well, finally, the child was ready for bed, I take it, and you left the room? A. Yes, the child was ready for bed; I put him in his bed. Mrs Lindbergh and I went around the windows, closed the shutters; we closed all the shutters tight except the one at the window, the southeast window; this one we couldn't quite close; it had evidently warped, so we closed it as best we could and left it that way.

Q. When you say you closed it as best you could, I take it that you mean you closed it but it didn't close complete? *A.* No.

Q. So that you could not lock it? *A.* Couldn't lock it.

Q. But it was drawn against the window? *A.* Yes.

Q. Now, what about the southeast window—was that closed? *A.* Yes.

Q. How about the shutters, on the other window, the french window, were they closed? *A.* Surely.

Q. You mean by that, I suppose, that the lock attached? *A.* Yes.

Q. So that they were not only closed but locked? *A.* Yes.

Q. Was the baby in its crib? *A.* Yes.

Q. Had you placed the crib clothing over the child? *A.* Yes.

Q. I suppose amongst other things it consisted of a blanket? *A.* Yes.

Q. What did you do with that blanket with reference to securing it to the mattress? *A.* Well, I secured it firmly to the mattress with large safety pins.

Q. About how large would you say? *A.* About two and a quarter to two and a half inches.

Q. Now then, it was about what time that you left the room? *A.* I left the baby's room for the last time at about eight o'clock. I remember distinctly looking at my watch.

Q. What made you look at the watch? *A.* Just to see the time.

Q. All right, now eight o'clock and you are coming downstairs. Was that the first time or the second? *A.* I hadn't left the upper floor before that time.

Q. I suppose you put the light out in the baby's room? *A.* I did.

Miss Gow, on her way downstairs, told Mrs Lindbergh the child was sleeping peacefully, and went to the servants' sitting room for supper. She ate with Mrs Whateley. Oliver Whateley was in the pantry, between the kitchen and dining room. At about eight-thirty Colonel Lindbergh's car was heard, and the colonel passed through the kitchen and spoke to the servants. The witness received about that time a telephone call from "a friend of mine", Henry Johnson. She returned to the sitting room and finished her meal, afterwards turning on a radio and looking at a magazine. During that twenty minutes or half-hour Mrs Whateley was in her presence and she saw Mr Whateley going in and out of the room. She went upstairs with Mrs Whateley to look at a dress about 9:00 P.M. and remained in Mrs Whateley's room, "gossiping" until "a few minutes before ten o'clock."

Q. And then what happened? *A.* I looked at my watch and saw that it was almost ten o'clock. I said: "I must go to the baby," to Mrs Whateley. I immediately got up and walked along the upper hall passage to the baby's bathroom.

Q. You finally got into the bedroom? *A.* Into the bathroom and then into the bedroom.

Q. When you got in there, what did you find? *A.* I found things exactly—I didn't put any light up, but left the door of the room open so that the light from the hall would come in.

Q. Why didn't you put the light on? *A.* It wasn't my habit to. I didn't want to startle the baby. I crossed to the window and closed it.

Q. Which window is that, the french? *A.* Facing the door, yes, the french window. I closed that window, plugged in the electric heater and stood for about one minute waiting for the room to lose its chill. I then crossed to the cot and bent over with my hands on the rail and discovered I couldn't hear the baby breathe. I bent down, felt all over for him and discovered he wasn't there. I thought that Mrs Lindbergh may have him. I went out of the baby's room into the hallway and into Mrs Lindbergh's room. I met her or saw her coming out of the bathroom and asked her if she had the baby. She looked surprised and said, no, she didn't. I said: "Well, where is the colonel? He may have him." I said: "Where is he?" She said, "Downstairs in the library." I turned quickly and ran downstairs to the library, where I saw the colonel sitting at his desk reading. I said, "Colonel, do you have the baby?" He said, "No, isn't he in his crib?" I said, "No." He ran past me upstairs and into the baby's room. I followed him and from there entered Mrs Lindbergh's room. He didn't say anything. He ran into his closet, came out again with a rifle and all three of us went into the baby's room. He said, "Anne, they have stolen our baby."

Q. Who said that? *A.* The colonel.

Q. The colonel said, "Anne, they have stolen our baby"? And you were then in the baby's room? *A.* Yes.

Q. Now, Miss Gow, after that what did the colonel do or anybody in the room? *A.* I called the colonel to the top of the stair. He stood undecided what to do and then he said—

MR REILLY: Now, I object to what he said.

Q. Well, at any rate, as the result of what he said, Miss Gow, did Mr Whateley go to the telephone? *A.* Oh, he sent me downstairs to get Mr Whateley. I ran down to the kitchen and told him what happened.

MR REILLY: I object to what she told him.

Q. Told him what happened and then what? *A.* Told him what had happened and he ran upstairs to the colonel. Mrs Whateley and I followed him, and then we started to search the house for the baby.

Q. When you say, "we started to search the house", who do you mean by "we"? *A.* Well, the colonel and Mr Whateley went downstairs. Mrs Whateley and Mrs Lindbergh were together, and I went around the rooms upstairs, looked in closets, opened doors, looked everywhere I thought we might find him.

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Q. Did Mr Whateley as the result of something said to him go to the telephone? *A.* He did.

Q. And where did the colonel finally go? *A.* I don't remember the colonel's movements after that.

Q. Did you see him with the rifle? *A.* I did.

Q. As he was leaving the house? *A.* Yes.

Q. And as the result of the telephone call, or for whatever reason it was, after Mr Whateley's telephone call, were you at home when the officers arrived, Officers Wolfe and Williamson of the Hopewell police? *A.* Yes.

Q. Now, madam, then Officers Wolfe and Williamson came in and what did you and the other ladies of the household do, while the officers were there? *A.* We sat in the sitting room downstairs.

Q. Who sat in the sitting room? *A.* Mrs Lindbergh, Mrs Whateley and myself.

Q. Doing what? *A.* Well, I guess we were all praying for the safe return of the baby.

Q. Well, was there anything said, or—— *A.* We didn't speak.

Q. Sat there in silence? *A.* Yes.

Q. When did you return to the room after it was ascertained that the baby had gone? *A.* When I was called upstairs by Colonel Lindbergh, to secure a knife, I believe it was.

Q. Did you get the knife? *A.* As I remember, I did.

Q. What did you see in the room that you hadn't seen when you had left the first time? *A.* I saw an envelope on the sill of the south-east window.

Q. An envelope? *A.* Yes.

Q. Did it look like Exhibit S-17, an envelope of that size? *A.* It looked like that.

Q. Were you there when the envelope was opened? *A.* No, I wasn't.

Q. And what else did you observe about the room that was different from the time when you had left it when the child had been in the room? *A.* The only thing I plainly recall seeing was a dirty smudge on the bedclothes, the sheet of the baby's crib.

Q. When you say a dirty smudge on the sheet, that is, that sheet was clean when you placed the baby in the crib, you mean? *A.* Yes.

Q. Was the impression, or the smudge, of such a nature as to indicate what it was? *A.* A brownish, muddy color.

Q. But the impression wasn't any definite impression, was it? *A.* No.

Q. Now, did you see what use was made of the knife that you were asked to get, or don't you recall that? *A.* No, I don't recall.

Q. . . . Miss Gow, did you find Exhibit S-16 [*showing to the witness*]? *A.* I did.

Q. The thumb guard. With whom were you when you found the thumb guard, S-16? *A.* With Mrs Whateley.

Q. Will you please tell us the circumstances and the date of that discovery? *A.* About one month after the baby was stolen.

Q. That would be somewhere in the neighborhood of April the first? *A.* Yes, it would be.

Q. And tell us about it, please, how you happened to find it? *A.* It would be in the afternoon after lunch. Mrs Whateley and I were in the habit of taking walks down the driveway.

Q. On the premises? *A.* On the premises. We walked down to the gate where the police were stationed, talked to them for a little while and on the way back, I should say about one hundred yards from the gate, we both noticed this object on the road. I recognized it immediately and picked it up.

Q. Who picked it up? *A.* I did; went right up to the house, found Colonel Lindbergh and gave it to him, told him how I had found it.

Q. Was it then in the same condition as it is today in this courtroom? *A.* Exactly that condition.

Q. Still knotted? *A.* Still knotted.

Q. About what time of the day was it? *A.* Between three and four, I should say.

Q. How far away from the gatehouse were you when you found this thumb guard? *A.* I should say about a hundred yards.

Q. And when you say a hundred yards, you mean towards the homestead, towards the building from the gate? *A.* A hundred yards from the gate.

Q. From the gate in the direction towards the homestead? *A.* In the direction of the homestead.

Q. Well, finally after April first, we get to May, and on the twelfth day of May 1932, Miss Gow, I take it you were still in the employ of Colonel and Mrs Lindbergh, and a member of the household? *A.* Yes.

Q. And while there, as a result of information given you, did you go someplace to see the child? *A.* Yes.

Q. Where did you go and with whom? *A.* I went to Trenton, I believe with, as I recall it, Detectives Coar and Leon.

Q. And when you got to Trenton did you go to the morgue? *A.* I did.

Q. Did you see a body there? *A.* I did.

Q. Whose body was it? *A.* Charles Lindbergh, Jr's.

Q. Thank you, Miss Gow, and that is all, except for the question that you came here from Scotland to testify, did you not? *A.* I did.

*Cross-examination by MR REILLY:*

The witness said she was thirty years old and that she had been employed since she was fourteen. She arrived in the United States on May 4, 1929, under the name of Bessie Mowat Goway. She worked "at several places" in Detroit and knew some "young men there." Mr Reilly's

attempts to have her name the young men were blocked by objection to this "fishing expedition" by Attorney General Wilentz.

*Q.* How did you secure the position with Colonel Lindbergh's family? *A.* Through the recommendation of a lady's maid in the employ of Mrs Morrow.

*Q.* How many brothers have you, Miss Gow? *A.* I have two brothers.

*Q.* What are their names? *A.* Alexander and James.

*Q.* Where is Alexander now? *A.* In Glasgow, Scotland.

*Q.* And James? *A.* In Glasgow, Scotland.

*Q.* When did they return to Scotland? *A.* They have never been out of Scotland.<sup>1</sup>

The witness said she first met Henry ("Red") Johnson at North Haven, Maine, where he was introduced to her by Burke, the Morrow chauffeur. In Englewood she frequently went to the movies with him and had on one occasion visited a roadhouse with him. She had once visited his brother's home in Hartford, Connecticut.

*Q.* By the way, how did you come back to this trial—who paid your expenses? *A.* I came back here to aid justice.

MR REILLY: I move to strike that out as not responsive.

MR WILENTZ: If your honor please, I think it is a partial answer.

MR REILLY: It is a voluntary explanation on the part of the witness.

THE COURT: Well, you see it is a matter that is volunteered and not responsive to counsel's question, and I suppose that technically he has a right to have it stricken out, and that will be the order.

*Q.* Who paid your expenses? *A.* The state of New Jersey paid my expenses.

*Q.* Amounting to how much? *A.* Altogether \$650.

*Q.* When did you determine that your visit to this country and your return and your services here would be worth \$650? *A.* I decided that when it was decided that I would get that amount—that that amount—

*Q.* Who decided it? *A.* I did.

*Q.* After corresponding with the attorney general's office? *A.* After corresponding with Colonel Schwarzkopf.

*Q.* Had he written to you and asked you what your price would be to come to this country and testify and go home? *A.* He did not.

Further questioning brought out the fact that Miss Gow had not been able to obtain employment in Scotland "because of the publicity of this

<sup>1</sup>Mr Reilly was laboring under the misapprehension that Miss Gow's two brothers had lived in New Jersey and that they had "had some sort of trouble with the police." The story, wholly erroneous, was typical of the wild rumors upon which the defense based much of their questioning.

case" and that she had been living on \$800 saved from her employment with the Lindberghs.

Mr Reilly had the witness identify one photograph of herself. She denied that a second photograph shown her by defense counsel was hers, and also denied that she had been advised to identify one photograph and not the other.<sup>2</sup>

Q. Now of course, as Colonel Lindbergh testified last week, very few people knew very little about his movements; is that correct?  
A. I believe so.

Q. And there was no advertising by you or by anybody that you might know of as to what the movements of the Colonel and Mrs Lindbergh might be; is that correct? A. That is correct.

Q. When was it decided—or was it decided to your knowledge—that the Colonel and Mrs Lindbergh would spend the week end prior to March first in Hopewell? A. I suppose I would know about Friday.

Q. Was there a member of the Morrow establishment known as Violet Sharpe? A. There was.

Q. Did you know her? A. I did.

Q. Very well. A. No, only in the capacity of meeting her in the house.

Q. Was she a Britisher? A. Yes.

Q. Had you ever been out with her? A. No.

Q. How old a girl was she? A. I couldn't say.

Q. Late twenties, early thirties? A. Late twenties, I should say.

Q. What was she—a parlormaid? A. I believe she was a waitress.

Q. Now then, we have it established that on the last week end of February 1932 Colonel Lindbergh and Mrs Lindbergh and the child and the two Whateleys were in residence at Hopewell and you were at Morrows'. A. That is correct.

Q. Now, why did you stay at Morrows', and why didn't you come over and take care of the child? A. Because it was Mrs Lindbergh's habit to take the child off on week ends herself.

Q. And not take you with her? A. And not take me.

Q. By the way, Miss Gow, did you ever see a flashlight in and around Colonel Lindbergh's home in Hopewell? A. I can't recall.

Q. Didn't you have a pocket flashlight that you used to go in and look at the baby at night? A. No I didn't.<sup>3</sup>

Q. Did you ever see Whateley have a flashlight? A. I can't recall.

Q. Well now, when the baby did not return Monday morning, February twenty-ninth, did you think that was unusual? A. I had a call from Mrs Lindbergh; she told me.

Q. Was there anyone in the Morrow establishment that knew to your knowledge whether Mrs Lindbergh and her baby were not going

<sup>2</sup>Mr Reilly's purpose in presenting the two photographs was never disclosed.

<sup>3</sup>Mr Reilly was endeavoring to substantiate a "suspicion" that Miss Gow had "signaled" to the kidnapers with a flashlight.

to return to the Morrow estate Monday, February twenty-ninth?

*A.* Mrs Morrow would.

*Q.* I am talking about the help now. *A.* I don't know about that.

*Q.* Is it correct, then, that the first message to the Morrow estate from Mrs Lindbergh to anybody was to you that she would not return?

*A.* As I know it, yes.

*Q.* Did you tell any of the help she was not coming back? *A.* Probably I did.

*Q.* Did you tell Red Johnson? *A.* I believe so.

*Q.* Why did you tell Red Johnson Mrs Lindbergh and the baby were not returning? *A.* I cannot recall exactly telling him, but it probably would be conversation.

*Q.* Well, he didn't work on the estate, did he? *A.* But I saw him that night, that evening.

*Q.* You saw him Monday evening? *A.* Yes.

*Q.* Were you out with him Monday evening? *A.* Yes.

*Q.* Where did you go with him? *A.* I just don't recall; riding, I believe.

*Q.* When Mrs Lindbergh called you up did she ask you to come over Monday night or ask you to come over Tuesday? *A.* Mrs Lindbergh called me Monday and said she thought they would stay down there.

*Q.* How long? *A.* All of Monday, that the baby had a slight cold.

*Q.* Did she say that she would like to have you come over Tuesday? *A.* Not at that time.

*Q.* Did she say when she was coming home? *A.* I don't remember.

*Q.* Then from the conversation you had with her you gathered that she was going to stay some little time in Hopewell, is that correct, because of the baby's cold? *A.* For another day, at least.

*Q.* . . . you told Mr Johnson that the Lindberghs were not coming back Monday night; is that correct? *A.* I just don't recall if I told Mr Johnson that.

*Q.* Did you tell anybody else that? *A.* I probably did.

*Q.* Why? *A.* For no reason. In the house, I mean, I suppose it was a natural thing for anyone to ask me why the baby wasn't coming back and I would reply that he had a slight cold and that Mrs Lindbergh was bringing him back.

*Q.* But you told no tradespeople, did you? *A.* No.

*Q.* And you told no outsiders or strangers? *A.* No.

*Q.* And you did not tell this defendant, did you? *A.* I did not.

*Q.* No. Then there was no one but you that knew Mrs Lindbergh was going to stay except Mrs Lindbergh and the colonel and the Whateleys—that Mrs Lindbergh was going to stay over on Monday night—was there? *A.* Oh, I can't say that for sure. There are other ways of knowing.

Q. Other ways of knowing? A. Well, the telephone comes in the house.

Q. You didn't suspect the telephone of being tapped, did you? A. Oh no, of course not.

Q. There was no occasion for it, was there? A. No.

Q. On Tuesday, March first, the fatal day, you drove back to Hopewell and you were driven back by Red Johnson, weren't you? A. I was not.

Q. Who drove you back? A. Mr Ellison.

Q. That is the Finn that you have spoken of, the Scandinavian, the second chauffeur? A. That is Mrs Morrow's chauffeur.

Q. Now, what time did Ellison drive you back? A. He drove me to Hopewell. I left the Morrow home about twelve o'clock, arrived in Hopewell at one-twenty, I believe.

Q. Well, when you did arrive in the afternoon the colonel was not there, is that correct? A. He was not; correct.

Q. And was it before or after the colonel arrived for dinner that you and Red Johnson held this telephone communication that night? A. Mr Johnson and I held a telephone communication after the colonel arrived.

Q. Was the colonel at dinner when you talked to Johnson? A. As I recall, yes.

Q. In the dining room? A. Yes.

Q. The baby had been put to bed? A. Yes.

Q. The Whateleys were down in the wing? A. Yes, in the kitchen.

Q. There was nobody on the second floor, as far as you know, but that child? A. No.

Q. Where was the telephone call from? A. The telephone call was from Englewood.

Q. Did you trace it? A. No, but I understood at that time.

Q. What number in Englewood? A. I do not know.

Q. Don't you know it was from Hopewell? A. No.

MR WILENTZ: Just a minute. I object to the question because it is predicated upon a statement which is not the fact. That is to say, when counsel says, "Don't you know it was from Hopewell," that question presumes that it was from Hopewell and that my adversary is going to show it now. Now, I know that is not the fact.

MR REILLY: I must object to his testifying first.

MR WILENTZ: Well, that is true, I suppose.

MR REILLY: It is a very clever chance to stop the witness at a very important question. I am testing her credibility. She doesn't know where the telephone call came from and I am trying to test her credibility, if she can remember where it came from, that is, the station. I think I am entitled to it.

THE COURT: The witness may answer.

Q. Now, you certainly knew, did you not, that when Mrs Lindbergh re-

called you to the Hopewell home to take care of the sick child that you would not be able to keep any engagement with Red Johnson that night, didn't you? *A.* I did know that.

Q. Why didn't you phone him then? *A.* I did call the house; he wasn't there. I left a message where he would find me, that I had gone down to Hopewell.

Q. Now just what was the exact time that Red Johnson phoned you? *A.* Mr Johnson phoned me about, I should say, about eight-thirty.

Q. How long did you talk to him? *A.* Oh, not more than five minutes.

Q. When you arrived in the afternoon of March first, was the child suffering from a cold? *A.* When I saw him in the afternoon he seemed to have gotten over it pretty well.

Q. There were evidences of a cold there, weren't there? *A.* There were.

Q. Sufficient for you to make an extra shirt for it that night, is that right? *A.* Yes, as a precaution.

Q. And yet you, supposed to be devoted, as you told us, to this child, put the child into the crib after rubbing it, after putting on the Vicks, after giving it a physic, put it on there shortly after eight o'clock and never visited that child again until ten; is that correct? *A.* That is correct.

Q. Most of the time you spent up in Mrs Whateley's room; is this correct? *A.* Yes, that is correct.

Q. Her windows faced in the same direction, did they not, as the windows of the nursery, out on the fields? *A.* Yes.

Q. At any time while you were in that room with Mrs Whateley that night was an electric light in the room put on and off? *A.* Yes.

Q. So that anybody out in the fields, knowing something about the house, would know that was Mr and Mrs Whateley's room? *A.* If they had studied it, yes.

Q. Just what time would you say the child was finally put to bed? *A.* Eight o'clock.

Q. What time did you go upstairs to look at the dress? *A.* About nine o'clock.

Q. Did you pass the nursery? *A.* No.

Q. Did you go up the back stairs? *A.* Yes.

Q. At nine o'clock you left Whateley on the ground floor? *A.* Yes.

Q. In the wing? *A.* Yes.

Q. And that is the last you saw of him? *A.* Yes.

Q. Until after you discovered the child was gone? *A.* That is correct.

Q. The child was well acquainted with Mr Whateley, wasn't he? *A.* Yes, I believe so.

Q. The child was not accustomed to strangers? *A.* No, not strangers.

Q. Never came in contact with strangers? *A.* No.

Q. Now, after leaving the ground floor at nine o'clock you did not see,

as you testified, Whateley until after this whole thing was over?

*A. [No answer.]*

Q. Did you spend an entire hour upstairs in Mrs Whateley's room?

*A. I believe so.*

Q. On your way upstairs did you see either the Colonel or Mrs Lindbergh on the second floor? *A. No.*

Q. So as far as you know the second floor again was free of everyone except the sleeping child? *A. Well, I knew that Colonel and Mrs Lindbergh were in the house and they would be in that part of the house.*

Q. Yes, you knew they were in the house and moving around? *A. Yes.*

Q. Now, how well was the house lighted? Was the ground floor lighted? *A. Yes, it was, as I recall.*

Q. Naturally while serving Colonel Lindbergh's dinner there would be need for the use of the pantry, wouldn't there? *A. Yes.*

Q. So that the pantry would be lighted? *A. Yes.*

Q. And so would the kitchen? *A. Yes.*

Q. The living room would be lighted? *A. Yes, that would be lighted.*

Q. The dining room was lighted? *A. Yes.*

Q. The library was lighted? *A. I don't know about the library.*

Q. So that to a person passing by the house there would be every indication that the house was inhabited and people were home by the lights; is that correct? *A. That would be correct.*

Q. Now, can you recall the lights on the second floor? *A. No, I know that there were no lights on the east wing when I left it.*

Q. The east wing is the nursery wing? *A. Yes.*

Q. Now, the french windows you have spoken about, did they open in, in the baby's nursery? *A. Yes.*

Q. And outside were shutters? *A. Yes.*

Q. Those shutters were closed? *A. Yes.*

Q. And lock dropped in; is that correct? A bar lock; is that correct? *A. That is correct.*

Q. Nobody had ever questioned you about where the nursery was or where the crib was where the baby slept, had they? *A. They had not.*

Q. It wasn't generally known where the nursery was, was it? *A. No.*

Q. Now, Miss Gow, to get back to the Whateley room upstairs, about ten o'clock, you told us that you decided that you ought to see the baby, is that right? *A. Yes.*

Q. You came downstairs [sic] as you have indicated, and into the nursery, but you did not turn on the light because a light from the bathroom shone into the nursery and that was sufficient light for you; is that correct? *A. Yes, that is correct.<sup>4</sup>*

Q. Now, did you then turn on the light in the room? *A. I did not.*

<sup>4</sup>The witness had said previously that the light came from the hall.

Q. When you discovered the baby was gone, did you turn on the light?  
A. No, I didn't.

Q. Then who was the first person to turn on the light, if you know?  
A. Colonel Lindbergh, I believe.

Q. You went downstairs and asked the colonel and then you came upstairs right with the colonel, did you? A. Right after him, yes.

Q. And you saw Mrs Lindbergh on the second floor then? A. I saw her in her room.

Q. Well, when the light was turned on so that you were able to see in the room, how long would you say that was after you discovered there was no form in the crib? A. About five minutes.

Q. And as you looked around the room did you see anything in the room that was different from when you left it? A. I didn't look around the room. I just knew the baby wasn't there.

Q. And how were the bedclothes, arranged or disarranged? A. They were very slightly disarranged, still had the baby's shape of his body there.

The chief defense counsel abruptly switched his questioning to the dog that failed to bark the night of the kidnaping. The witness described the dog as a "smooth-haired terrier" brought to the Lindbergh home from Princeton by the Whateleys. The dog was trained by the Whateleys and was kept in their apartment. On the night of the crime the terrier was "downstairs in the west wing." Ordinarily it was "constantly around" Whateley.

Q. So that anything Mr Whateley did or Mrs Whateley did around the house would not excite any suspicion on the part of the dog, would it? A. No, I wouldn't think so.

Q. You didn't hear the dog bark once that night, did you? A. No, I did not.

Q. When strangers came to the door you heard the dog bark, didn't you? A. Yes, as I remember it, he did.

Miss Gow saw the "window-sill note" for the first time when she brought to the nursery a knife, as requested by Colonel Lindbergh. She did not go to the window, nor did she see the colonel go to the window. The night of March first was the first occasion when she had noticed the warped shutter; but the shutter hadn't been closed the previous week end.

The baby had some four or five sleeping suits, some of which were kept at the Morrow home. They were laundered by the witness.

Q. How many suits did you have in Hopewell of this kind and description before the kidnaping; I mean that day? A. There would be two at least. I don't know the number.

Q. Did you see them after the child was kidnaped? A. Yes.

Q. In other words, there were four or five of these baby's suits in and around Hopewell and at the Morrow estate on the night of the kidnaping. *A.* Yes.

Q. Now, of course, this suit was not on the baby when you went to the morgue? *A.* No.

The witness testified that Mrs Lindbergh purchased the thumb guards for the baby and repeated her testimony as to the finding of one of them about a hundred yards from the gatehouse about April 1, 1932. Mr Reilly sought to ridicule her contention that the thumb guard was "bright and shiny and in the same condition" as shown in court, when she picked it up in the roadway. It was in a muddier condition, Miss Gow said, and she brushed some of the dust off.

Q. What do you mean by saying it was in a much muddier condition when you told the attorney general this morning that it is in the same condition as it was when you picked it up? *A.* It can't possibly be in the same condition when it has been handled by people.

Q. Now, you are a very bright young lady, Miss Gow, aren't you? *A.* I am. *[Laughter and applause.]*

THE COURT: Now, that demonstration must not be repeated again.

I have already had occasion to warn people that they must not applaud and they must not laugh in such fashion. Perhaps those who now indulge have not heard of my warning before, but I can tell you now that if you persist, if the spectators here persist in this sort of interruption, I am going to clear the courtroom. You may proceed.

The witness identified a photograph of Violet Sharpe and another of herself. She denied ever having been to Hunters Island and said that the only boating trips with Johnson she had ever enjoyed were at North Haven, Maine. She never knew two girls known as "Paulette and Louise DeBoise", nor a man named "Abe Wagner."<sup>5</sup>

The child was in complete darkness after she left him in his crib, and at no time did she hear any noise in the nursery. She saw no screen, table or chair disturbed, and nothing unusual in the nursery.

The witness said she never visited the Lamont yacht on which Johnson was employed; that she had never visited New Rochelle; that she had never gone out with Violet Sharpe socially; and that she "never visited with Violet Sharpe any yacht or boat that was owned by Doctor Condon."

*Redirect examination:*

Miss Gow said she "did not know Mr Condon, or Mr Reilly, or Mr Hauck before March 1, 1932." She kept company with Johnson, who was "a very nice young man."

<sup>5</sup>These names never entered the case subsequently.

## JOSEPH WOLFE

*Direct examination by MR WILENTZ:*

The witness, a New Jersey state trooper, was called to the Lindbergh home on March 1, 1932. He visited the nursery and saw an envelope lying on the "south window of the east wall." Beneath the window was a suitcase, on which there was a trace of mud. He saw Trooper Frank A. Kelly place his initials (F. A. K.) on the back of the envelope.

*Q.* And tell us about the process leading to the opening of the note and the marking of the initials on there. *A.* When Trooper Kelly arrived and went to the nursery, he put on a pair of gloves and he picked up this note and brought it to a table in the center of the room and there he used material, fingerprint material, to check this envelope for fingerprints.

*Q.* Did he find any fingerprints? *A.* No sir, he did not.

*Q.* . . . Did you notice whether or not the blankets were still pinned to the mattress? *A.* In looking at the crib, I noticed that the upper end of the blankets at the head of the bed were still pinned.

The witness said he went to the east side of the house and noticed two indentations made in the mud as though a ladder had been there, and near by a man's footprint—"a large footprint." He outlined what he had found to Detectives Bornmann and De Gaetano upon their arrival, and later, using his flashlight, discovered a ladder sixty or seventy feet from the house.

[*The witness was given over to cross-examination with the stipulation that he might be recalled for further direct examination on other matters.*]

*Cross-examination by MR REILLY:*

The witness admitted that no plaster-of-paris cast was made of the footprint, that no measurements were taken or preserved and that the only steps taken to preserve the print were his own orders "keeping persons from going around to that side of the house." He knew it was a material piece of evidence, but couldn't say whether the footprint was of a right or left shoe. He did not measure the depth of the ladder indentations in the mud and did not know whether any officer fitted the ends of the ladder to them. He did not see Mrs Lindbergh, Miss Gow, Mrs Whateley or the butler that evening.

## LEWIS J. BORNMANN

*Direct examination by MR WILENTZ:*

Bornmann was a state police officer, stationed at the police training school at Wilburtha, near Trenton. He said he met Trooper Wolfe and Colonel Lindbergh at the Lindbergh home on the night of March 1, 1932,

and that he went to the nursery, corroborating evidence about the undisturbed crib, the suitcase "with a smudge of yellow mud", and another smudge on the floor "about the center of the room." He made a hurried sketch of the room and then questioned various persons in the home. He saw Trooper Kelly test the window-sill note for fingerprints and find none. Outside the house he found the footprints described by Trooper Kelly and then picked up the ladder, which had been described to him by Colonel Lindbergh.

*Q.* Is that the ladder you picked up? [*Exhibiting.*] *A.* Yes sir, it is.

*Q.* Three sections? *A.* Three sections. Two sections were lying together, and one section about ten feet further on.

*Q.* Now, the two sections that were lying together, were they connected or disconnected? *A.* They were connected to a certain extent.

*Q.* Tell us the extent. *A.* One section had split. The two upright pieces had split, allowing the sections to separate. They had been connected with a dowel pin.

MR WILENTZ: First, may I offer the ladder so when we refer to it—

MR REILLY: I object.

THE COURT: Do you object to its introduction?

MR REILLY: I do object to it most strenuously upon the ground that there is no evidence that this ladder was used at that house that night or that it is in the same condition now that it was in then. It is incompetent, irrelevant, immaterial at this time.

THE COURT: Well, Mr Attorney General, it would seem that you ought to show that the ladder is now in substantially the same condition—

MR WILENTZ: I will.

THE COURT: [*Continuing.*] —as it was when it was found that night, and then you might offer. Then we will listen to any objection that is made to it.

MR WILENTZ:

*Q.* Officer, is this ladder substantially in the same condition as it was that night when you found it? *A.* Yes sir, it is.

*Q.* This white board, however, wasn't on it, was it? *A.* No, that has been put on it since.

*Q.* Will you tell us in what other manner it is different now than it was then? For instance, I see a number here, No. 2, with F. K. on there; do you know what that is? *A.* Yes, that is Trooper Kelly's initials placed on there that night immediately after—

*Q.* The writing is his writing? *A.* Yes sir.

*Q.* And these numbers alongside of the nails, they have been— *A.* The nails were removed for the purpose of analysis.

*Q.* These little clips were not on at the time? *A.* No sir, they were not, nor were those white numbers, those identifying marks.

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Q. On this piece of board I notice a cut. That was not there at the time?  
A. No sir, it was not.

Q. Except for that, those changes that I have indicated to you which, I take it, were made for the purpose of making tests, is it the same ladder? A. Yes.

MR WILENTZ: I now offer it.

MR REILLY: Mr Pope will argue it.

MR WILENTZ: Is there any objection?

MR REILLY: Yes sir.

MR WILENTZ: I offer it in evidence.

MR POPE: Wait a minute.

MR WILENTZ: I still offer it.

MR POPE: We should like to cross-examine upon this ladder before it is offered in evidence.

THE COURT: You may do so.

MR POPE: [*Voir dire.*]:

Q. Did you take the ladder away from the Lindbergh home? A. Not immediately, no.

Q. Did you take it when it was taken away? A. Some months later, yes.

Q. And what was done with it after you picked it up? A. I turned it over to Trooper Kelly.

Q. And what did he do with it? A. He processed it for fingerprints.

Q. You say that after the ladder came into the possession of the State Police it was taken apart, the nails drawn out and it was taken apart? A. Yes sir, it was.

Q. And were all the nails drawn out? A. Not all of them, no sir.

Q. How many of them were? A. All except three, I believe.

Q. And were the cross rungs taken off? A. Yes sir, they were.

Q. And then they were put back? A. Yes sir, they were.

Q. I understood you to say that the light-colored piece of wood which shows on the right-hand side of the ladder, as I look at it from here, was not on the ladder that night? A. No sir, it was not.

Q. That has then been put on there since you found the ladder? A. Yes.

Q. And it was not a part of the ladder at the time it was found? A. No sir, it was not.

MR POPE: We object to the introduction of the ladder at this time for several reasons. In the first place, its custody has not been traced, down to the present time. We don't know who has had an opportunity to play with this ladder, toy with the ladder, or to change it or alter it. And in the second place, it definitely appears from the testimony of this witness that in several respects the ladder is not now in the same condition that it was at the time it was found, namely, that some of the rounds have been removed from the ladder, that it has been taken apart, that nails have been drawn out of

it. In addition to that, they also tell us that there is now attached to the ladder a piece of light wood which was not on the ladder at the time it was found and was not a part of the original ladder. We insist that before this ladder is evidential, if it is ever to be admitted in evidence, that its custody and possession must be traced carefully through every hand that had possession of it from the moment that it was found on the Lindbergh estate down to its production in court today.

We have a further objection to the admission of the ladder at this time. There is no evidence here at this time to show, nor is there any circumstance in evidence which tends to show, that this ladder was used for the purpose of entering the Lindbergh house that night.

THE COURT: [Stepping to the ladder.] Mr Pope——

MR POPE: Yes, I am coming.

THE COURT: Mr Pope, is that the piece of wood that you have been talking about that was not on the ladder but now is? [Indicating.]

MR POPE: That is what the witness says.

THE COURT: Yes.

MR WILENTZ: He has explained the reasons for it, if your honor please.

THE COURT: Yes, I understand that.

MR POPE: I also notice that there are, if your honor please, several tags with numbers on them on the ladder.

MR WILENTZ: That has been called to the attention and explained, if your honor please.

MR POPE: And that there has been a piece sawed out here. [Indicating.]

MR WILENTZ: That is the one referred to and explained.

THE COURT: If counsel is finished——

MR POPE: And that there is apparently a piece of wood missing from the bottom of one of the three sections. I also observe that the ladder is bound on the side with pieces of white string and that it is also tied up near the top, or that there is tied to it a dowel pin, which is not shown to have been its condition at the time it was found.

THE COURT: It may well be that it is desirable before this ladder be actually offered in evidence that it be made to appear, so far as counsel are able to make it appear, in whose custody this ladder has been, and what has been done with it. I am not saying now that such proof is absolutely essential to the admission of the ladder in evidence; I am merely indicating to counsel that it might be desirable to present such proof as counsel are able to present upon those aspects. But in order that that may be done, I think the ladder should be marked for identification, so that it will be subject to

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the examination of such witnesses as counsel see fit to call and call it to their attention.

MR WILENTZ: Then, if your honor please, I offer it for identification.

THE COURT: It may be marked for identification.

[*Marked S-32 for identification.*]

MR WILENTZ, *Redirect examination:*

Q. Now, Officer, did you also find a dowel pin there? A. There was a dowel pin in the ladder which has been connected.

Q. Connected with—— A. With another section.

Q. That is, two sections of the ladder were some way connected with a dowel pin? A. Yes sir.

Q. You also brought in the dowel pin, didn't you? A. Yes sir; it is in the ladder.

Q. You brought the ladder to which you refer and the dowel pin into the Lindbergh home, didn't you? A. I did.

Q. When you talk about a dowel pin, you talk about a connecting rod, isn't that it, between, in about there, where one section joins another section of the ladder? A. That is correct.

Q. That makes two sections when they are joined? A. Yes sir.

Q. Then, if there is another section to be joined by a dowel pin, that is at the other end of the section, is that so? A. Correct.

Q. Then, of course, when a dowel pin connects this one section with the other, it folds in together, then, doesn't it, if it is built that way? A. Yes sir. They suspend, make an extension.

Q. Now, you turned over the ladder and the dowel pin which you found out there that night to Trooper Kelly for processing? A. I did.

MR WILENTZ: I will offer this dowel pin for identification.

[*Dowel pin marked Exhibit S-33 for identification.*]

Q. You also found a chisel there that night, did you not? A. I did.

MR POPE: We object to the leading questions. Ask him what he found, Mr Attorney General.

MR WILENTZ: Thank you, Mr Pope.

Q. As I understand it, you have also testified that you found a ladder and a dowel pin. What else did you find? A. I found a  $\frac{3}{4}$ -inch wood chisel.

Q. And what did you do with it? A. I also turned it over to Trooper Kelly.

Q. Is this the chisel which you found? A. Yes sir, it is.

Q. And this chisel you turned over to Trooper Kelly? A. I did.

MR WILENTZ: I offer this chisel which the witness says is the chisel that he found there, for identification.

[*Chisel was marked S-34 for identification.*]

Q. And S-34 you also turned over to Kelly, is that it? A. Yes sir.

THE COURT: Is there no objection to the chisel?

MR WILENTZ: It is just for identification. I have not offered it.

*Cross-examination by MR REILLY:*

The witness described the "well-furnished" nursery, which had in it a crib, a table in the center of the room, several chairs scattered in different parts of the room and a screen at the head of the bed. He understood, but did not see, that everything in the room was fingerprinted by Trooper Kelly.

Q. Where was Miss Gow, or do you know where she was in the house when they sent to her to come to the nursery? A. I believe she was in the living room, with Mrs Lindbergh and Mrs Whateley.

Q. Did you see the butler there? A. After I had gone downstairs, yes.

Q. You didn't see him when you came in? A. No, I saw no one but Colonel Lindbergh.

Q. What size shoe did the butler wear? A. I never questioned him as to that.

Q. Wasn't everybody in the house that night, with the exception of Colonel Lindbergh and his wife, under suspicion?

MR WILENTZ: I object to the question, if your honor please.

MR REILLY: I think it is perfectly proper cross-examination.

THE COURT: Well—

MR REILLY: Here is a footprint in the mud, and people around the building—

MR WILENTZ: That is not the question, whether there was a footprint in the mud or people around the building; the question is whether or not anybody and everybody around there wasn't under suspicion. Now, if your honor please, I think that necessarily reflects upon a limited number of people.

MR REILLY: Well, there isn't any doubt but what it reflects upon a limited number of people. We had justification for it. Here is a footprint—

MR WILENTZ: Well, just a minute now. My distinguished adversary—I disagree with my distinguished adversary; I say he has no justification for it and that is just the purpose of the objection, and I say up to this time there is no cause or warrant for that sort of a question. I think if the question was intended to show that if these officers should have questioned everybody in sight, that is all right, but to say that there was suspicion upon everybody, if your honor please, is stating something that is not warranted.

MR REILLY: I say that in a case of such monumental importance as it occurred that night, this officer knew the minute he arrived, as a trained detective, and as every detective knows, that, excluding the father and mother of that child, everybody that night should have been under suspicion; and I ask him now whether or not he

knows the size of Mr Whateley's shoe. Because it is quite possible cross-examination may develop that this might have been the size of Whateley's shoe.

MR WILENTZ: I have no objection to that, the size of Mr Whateley's shoe. That is different than what was asked about suspicion.

THE COURT: How can this witness possibly know whether anybody in that house was under suspicion or not?

MR REILLY: From a police viewpoint.

Q. Well, take off the word "suspicion." Subject to questioning; am I right about that? Everybody in that house was subject to questioning; am I correct? A. Naturally, they were.

The witness knew none of the servants and realized he was there to "put everybody under investigation except the colonel and his wife." He knew the footprint he had found was not Colonel Lindbergh's, but did not measure the print against the butler's footprint. He took the butler's word that he had not been outside the house.

Q. When you saw the woman's footprints, did you take anybody's word for it as to who was outside? A. Yes.

Q. Who? A. Mrs Lindbergh's.

Q. Did you take Betty Gow's word? A. She hadn't been out.

Q. You don't mean to say you asked Mrs Lindbergh whether she was outside the house in the mud? A. I did.

Q. You wouldn't accuse Mrs Lindbergh of anything?

MR WILENTZ: He is not accusing Mrs Lindbergh of anything and the question is unwarranted. He says Mrs Lindbergh told him about the footprint not being hers.

MR REILLY: He said nothing of the kind.

MR WILENTZ: I so understood.

THE COURT: There seems to be nothing before the Court. You may proceed.

Q. You came to the conclusion, didn't you, as a detective, that something had stood in the ground where there were two holes? A. I did.

Q. Sticks or something? A. Correct.

Q. You saw a footprint right near it? A. I did.

Q. You wanted to know whose footprint it was? A. Naturally.

Q. You knew it wasn't the colonel's, didn't you? A. I knew it was none of the men that was found there that night.

Q. But you didn't measure the butler's footprint, did you? A. I had his and the colonel's word that he hadn't been outside.

Q. Why, did you know that the butler was alone in that house on the ground floor for two hours while his wife and Betty Gow were upstairs? Did you know that?

MR WILENTZ: Just a minute. I object to the question because it is not a fact that he was on the first floor alone for two hours. The

testimony in fact is to the contrary, that during the time that he was down on the first floor when these maids were upstairs, Mrs Lindbergh and the colonel were both on the first floor. That is the testimony.

MR REILLY: I am talking about servants and you know I am talking about servants.

MR WILENTZ: Oh no.

MR REILLY: And you know I am excluding the colonel and his wife.

MR WILENTZ: Oh no.

MR REILLY: All right. If I am ambiguous, let us go back. Let us get back to the servants in the house.

Q. Did you know that night that this child was for two hours from eight o'clock until ten, as far as any servants were concerned, absolutely alone; did you know that? A. As to the question of servants, yes.

Q. Well, my goodness, you don't believe everybody that you question when you are sent out to investigate a crime, do you? A. I take a statement from them, then investigate.

Q. And if you like the statement, you believe it, that it? A. No.

Q. Well, did you subsequently find out that Whateley, the butler, for two hours was down in the kitchen or the reading room, out of sight of Colonel Lindbergh and Mrs Lindbergh, his wife, and Betty Gow? Did you?

MR WILENTZ: Now just a minute. That does not appear to be so.

MR REILLY: That is the evidence.

MR WILENTZ: If your honor please, that is why I object to it, because it does not appear to be so. It is an unfair question. There is no evidence he was out of the sight of Colonel and Mrs Lindbergh for those two hours or one hour. The testimony is, in fact, that Miss Gow and Mrs Whateley went upstairs at nine. They were there at ten. Whether he was at that time out of sight of Mrs Lindbergh and Colonel Lindbergh I don't recall what the testimony is, except I know there is no testimony that says he was out of their sight all during that time.

MR REILLY: Well, the evidence, as I recall it, was that the colonel and his wife were having dinner; they were waited upon by Mrs Whateley. They were out of sight of the kitchen. They were out of sight of the servants' quarters. After dinner they went in the library, sat in the lounge. After a while she went upstairs. The colonel went to draw a bath and Whateley was, as far as we know, in the servants' quarters reading his book in their reading room.

MR WILENTZ: May I just add the further thing, if your honor please, to indicate how conclusively wrong that is; that if there is any testimony at all about Whateley, Whateley is the man that served the dinner to the Colonel and Mrs Lindbergh.

THE COURT: The question seems to be as to whether or not this witness knew certain things?

MR WILENTZ: Whether he knew? That is different. I withdraw that then. Did he know that?

THE COURT: And I suppose that it is competent for him to say whether he knew it or didn't know it.

MR WILENTZ: I withdraw the objection then.

MR REILLY:

Q. Will you answer the question? A. What is the question?

[*Question repeated.*]

A. He was out of sight to a certain extent. He was reading in his sitting room.

Q. Well, did you ask him what he was reading? A. He was reading a *Saturday Evening Post*, if I recall.

Q. You don't absolve people because they give you some answers to questions, do you? A. No. But I found all his statements to be correct.

MR REILLY: I move to strike that out as not responsive and voluntary.

THE COURT: Strike it out.

Q. Now, will you answer the question only? When you came out on the ground did you walk around the catwalk? A. I did.

Q. And you had a flashlight? A. I did.

Q. And then you say off on the side you found this ladder that you have described as finding there? A. It had been more or less pointed out to me by Colonel Lindbergh from the nursery window.

Q. Colonel Lindbergh pointed something out to you from the nursery window? A. He said, "A ladder lays out there a ways."

The witness was excused after describing how he brought the ladder into the living room, and a brief redirect examination, in which he said Colonel Lindbergh had informed him that the butler, Whateley, served dinner on the night of March first.

#### FRANK A. KELLY

*Direct examination by MR WILENTZ:*

The witness, a former state police trooper, was engaged in identification work, fingerprinting and photography for the department. On the night of March first he processed every object in the nursery for fingerprints, including the ransom note and envelope. He found no fingerprints on any object. Bornmann brought him two sections of the ladder that had been found on the grounds, and he marked the rungs and other parts of the ladder with his initials, F. K., and the date. He identified the sections as "the identical sections" he received from Bornmann. The ladder was in his direct charge until June 1932, when he took it to Washington

to be processed. When he was in Washington he locked the ladder up in a safe at night. In June he surrendered it to Captain Lamb, and since that time the ladder had been in the latter's custody.

*Q.* Will you tell us, as far as you know, any differences in this ladder as you see it now from the time you first saw it when Bornmann gave it to you? *A.* Those numbers were not on there.

*Q.* Which numbers? *A.* These little white numbers, these tags.

*Q.* The little white clips in each rung? *A.* That's right; and these aluminum tags, nor the board on the side.

*Q.* The white board as distinguished from the dark and used boards? *A.* That's right; nor this split.

*Q.* A split there which seems to be the reason for putting this white board there to attach one part—

MR POPE: We object to the question.

THE COURT: Perhaps it is a little leading.

MR POPE: Terribly leading.

*A.* [Continuing.] And the saw cut. . . .

*Q.* How about this dowel pin? *A.* That dowel pin was in the ladder.

*Q.* How about the other dowel pin? *A.* The other dowel pin was outside in the yard.

*Q.* Is it the same ladder? *A.* It is.

The witness noticed a dirt smudge on the leather suitcase in the nursery, but made no test of it other than comparing its color with the color of dirt in the yard. He identified a photograph of the "man's" footprint in the Lindbergh yard as taken by him on the morning of March second, and the photograph was introduced in evidence. He did nothing to encase the footprint or otherwise preserve it. After identifying a chisel, on which he said he found no fingerprints—

*Q.* Now, was the ladder which Lieutenant Bornmann gave to you on the premises assembled together in three sections? *A.* No sir, it was not.

*Q.* I mean, eventually was it put together? *A.* Oh yes.

*Q.* And was it placed against the house? *A.* It was.

*Q.* Now, when it was placed against the house, the three sections together, on the east side of that house—at the point where that ladder touched the house were there any marks at all, the top section?

*A.* Yes, there was.

*Q.* On the third section? *A.* On the second section.

*Q.* The third section, when placed up at the top of the house—were there any marks there? *A.* No sir.

*Q.* Anywhere within the vicinity of that area? *A.* No sir.

*Q.* Now then, did you take the ladder with the first two sections, put it together, place it against the wall near that window? What did you observe when you did that? *A.* I observed that at the top

section, that is, the top of the second section, where the ladder had rested against the wall of the house, that there were markings, that is, the width of the ladder about an inch and a half to two inches above that top section of the second ladder.

Q. I don't understand about that inch and a half that you are just talking about. First, when you placed the ladder did you place the ladder in the indentation shown near the board walk in Exhibit S-37? A. I did.

Q. That is where you rested the ladder? A. Exactly.

Q. Now, were the two sections of the ladder and were the foot of the ladder there in those two holes—did they fit? A. Exactly.

Q. Then, since it did fit, you put it against the house at that point? A. I did.

MR REILLY: Again you are leading. I am sorry, but my brothers of the Bar are so nervous from your leading I must object.

MR WILENTZ: I think maybe you are right, but sometimes in our enthusiasm—we forget.

Q. Did you take a picture of the ladder as you placed it at that time? A. I did.

Q. Is this the picture of the ladder as you placed it with the two pieces of wood in those holes shown in Exhibit S-37? A. It is.

Q. Does that correctly portray the ladder placed against the east side of the house, the bottom part of the ladder in the indentations shown in S-33? A. It does.

Q. And is it, incidentally, a picture of these two sections? A. It is.

MR REILLY: We object to it.

THE COURT: Object?

MR REILLY: We do.

THE COURT: On what grounds?

MR REILLY: On the ground that it does not conform to the testimony heretofore given. It shows a window of a third floor, apparently the nursery, with the shutters off, window open, the general condition not as heretofore testified to.

THE COURT: Well, it purports to be a photograph of an experiment. Do you put your objection upon that ground?

MR REILLY: Yes sir. Also upon the ground that it portrays and might portray and convey to the jury a wrong impression. It does not conform to the evidence as given heretofore: the physical condition of the outside of that house.

MR WILENTZ: If your honor please, it is offered for the purpose of illustration. It is intended to be helpful to the Court and to the jury, and there is nothing about that except the open windows—it is the same ladder, it is the same house—and there is nothing about that picture that the Court cannot instruct the jury about if it so happens that it should escape their memory, the fact that the windows, we claim, were closed at the time. But I think that it will

be helpful and I don't see why there should be objection if it is going to be helpful.

MR REILLY: Whether it is helpful or not, we are relying upon the strict rules of evidence. I think there we are perfectly within our rights.

THE COURT: I suppose the true rule is that either side has a right to make an experiment under substantially the conditions which are of interest to the case and to prove the result of that experiment. That is the rule; but this proposition seems to be rather an extension of the rule and I would think that at the moment I ought to sustain this objection.

MR WILENTZ: Well, if your honor pleases, before there is anything like that, let me state very respectfully that I cannot see how it is anything but a simple experiment and not an extension of the rule; because we have not only the same house, but we have not brought a strange ladder on the theory that someone may have brought one to fit; we have the very same ladder, the very indentations there, the same house, everything identical, except for the physical fact that a window may have been closed or opened, which is a minor matter after all; and with those very things—we are not taking a strange object and bringing it in, if your honor pleases, not one single strange foreign object, for the experiment, which is a very unusual thing for an experiment, but the very objects there on the ground. Now, if we are permitted to make any experiment at all, if your honor please, for the purpose of helping the jury and for the purpose of your honor's help, we have certainly used only those things that are there, without a foreign object.

MR REILLY: Well, of course, it is not our purpose to keep anything from the jury or to prevent the Court, who needs no assistance, from getting assistance, but I say this: if I may look at the photograph, there is no evidence in this case, direct, or to my mind, circumstantial to this case, that that child was passed out that window and down any ladder or down this ladder, and I contend that this is merely an experiment with a ladder found seventy-five feet away, brought to the house and placed in some holes. The shutters are taken off the house, off the window; the window is left open, to convey to this jury an improper idea that by the window being open and the shutters out of the way and the ladder placed the way it is here in this imperfect experiment, it would be possible to go up the ladder only once, go up the ladder, put the ladder against the shutters, open the shutters with the ladder leaning against them, come down, then with your window open go up the ladder again without moving the ladder, go in a window, take the child out and come down the ladder again and still shut the shutters after you, and leave a note, your visiting card, on the radiator.

MR WILENTZ: If your honor please, may I suggest to my delightful

adversary's summation that this ladder, when placed in the manner that we are attempting to show it with the two sections—and I don't want my adversary to get impatient, because we will show it —placed roughly—

MR REILLY: I am not getting impatient.

MR WILENTZ:—placed right against that building, is placed in such a way that it never approaches the shutters and the shutters have got nothing to do with it. Underneath the window it falls—when you place the ladder in the two holes, indentations, the shutters are no obstruction at all, having nothing to do with this case. Here is this building, and that is the more reason I think this experiment is necessary instead of being a matter of argument; here is an experiment, an illustration. Let him take that ladder and take that view and situation as an experiment and let him explain it away.

MR REILLY: Now it seems to be the contention of the general that he brings in a ladder of three sections of which only two were used.

MR WILENTZ: That's right; we will prove that.

MR REILLY: That is entirely different from his opening.

MR WILENTZ: No, it is not.

MR REILLY: Oh yes, it is. "I will bring in a ladder of three sections", up which you say this kidnap went. Now you are trying to hedge and say he went up two.

MR WILENTZ: No. Counsel does not need to hedge. We will prove that this ladder, as I said in my opening, was used. We have it in the courtroom and the defense is hollering about keeping it out, not the State.

MR REILLY: That is very unfair.

MR WILENTZ: No. You say we are hedging. I want to show you there is no hedging. We have the very ladder and we will show that that was used in the kidnap and the murder.

THE COURT: Well, I am inclined to think at this moment that the State should be confined to proof by the witnesses, who can speak concerning what sort of an experiment was made, and he may state the result of that experiment subject to the Court's ruling, and after all that is done, then if there seems to be any necessity for the picture of this experiment, then we will rule on the picture.

MR WILENTZ: Thank you, sir, and I withdraw the offer.

Q. And, Kelly, tell us then, please, just exactly what you did in this experiment? *A.* In this experiment I placed the ladder with two sections, with the lower part of it resting in these two marks that were found.

Q. The marks are the marks referred to in this exhibit that is in evidence, S-37? *A.* Yes sir. And found that after the bottom section was placed in those marks and the top part of the ladder rested against the house, upon examination I found that where this ladder, the top section of the ladder, rested against the house, that directly

over the top two rungs, or the braces on the side, there were two marks about an inch and a half to two and half inches long that could in my opinion be caused—

MR REILLY: I object to your opinion.

Q. Not in your opinion. What did they do with them; were they right with the ladder? *A.* They were right with the ladder, yes sir.

Q. On the house? *A.* On the house.

Q. Are you talking about marks on the wall of the house? *A.* I am talking about marks on the wall of the house, yes sir.

Q. What kind of marks were they? *A.* Ladder marks.

MR REILLY: I move to strike that out as calling for a conclusion, unless the ladder in his experiment made the marks.

THE COURT: I decline to strike it out.

MR REILLY: May I have an exception?

THE COURT: You may have an exception.

Q. And now, did you also make an experiment with three sections, the three sections that you found there? *A.* Yes sir.

Q. And what did you find when the ladder with the three sections was placed against the building? *A.* It went up above the window.

Q. And when it went up above the window, were there any marks on the wall there? *A.* No sir.

Q. Now, when you got up to this second—with the ladder, the two sections, did you take a look at the shutter? *A.* Yes, I did.

Q. What kind of material was on the side of this house; what was it built of on the east side? *A.* Stone.

Q. What color was the stone? *A.* White.

Q. What sort of white was it? *A.* I should say whitewash; it was painted with a whitewash or white paint.

Q. Were the marks that you speak of, that you saw when you placed the two sections of the ladder up against the house, the marks that you referred to before as ladder marks, were they plain? *A.* Very.

Q. Tell us with reference to color what color it left with reference to the white? *A.* A scraping mark in the white paint.

Q. Well, having had these scraping marks, did it leave white there or a different color? *A.* The gray of the stone showed through just a little bit.

Q. The gray, and when you say gray, that is as distinguished from the rest of the wall, which is white, is that what you mean? *A.* That is right.

The witness described two white marks he found at the top of each of the ladder rails of the second section of the ladder, and was permitted, over defense objections, to say that he believed they were made by paint (inferentially, where the ladder slipped down the whitewashed wall).

## FIFTH DAY

**F**RANK A. KELLY resumed the stand.

*Flemington, N. J., January 8, 1935.*

*Direct examination [continued] by MR WILENTZ:*

Q. Officer, you remember this nursery room, do you not? *A.* I do.

Q. What have you to say as to whether or not the table was in direct line between the southeast window and the crib? *A.* You could have walked a direct line from the window to the crib with no obstruction.

Q. Now, while this experiment was made with the ladder, which has been referred to in this case as Exhibit S-32 for identification, there was another ladder used, was there? *A.* Yes sir.

Q. What ladder was that? *A.* It was an extension ladder that was in the garage of Colonel Lindbergh at the home.

Q. Did you measure the indentations on the ground, the impressions in the ground which you and others have referred to as the holes or impressions made by the ladder? *A.* No sir, I didn't measure it.

Q. Did you take a photograph of the paint—I think you said there was paint or whitewash that was on top of the second rung of the ladder? *A.* No sir, I did not.

Q. Why not? *A.* In the process of testing the ladder for fingerprints, that dusted off.

*Cross-examination by MR REILLY:*

Q. Mr Kelly, how much experience have you had in taking fingerprints? *A.* Six years.

Q. Where did you study? *A.* While I have been in the department.

Q. Under whom did you study? *A.* I studied this under Sergeant Jastrom, and I studied myself in various books that I have picked up.

The witness testified that despite the fact that Mrs Lindbergh and Betty Gow had been in the nursery and had administered medicine to the child, he found no fingerprints "of value." He made no cast of the man's footprint beneath the nursery window, but believed Detective de Gaetano had done so. The so-called kidnap ladder was dry, and he failed to get any fingerprints from it. It was Oliver Whateley who called his

attention to the ladder that was part of the equipment of the Lindbergh estate. He did nothing about attempting to get fingerprints from that ladder.

*Q.* Did you photograph the footprint? *A.* I did.

*Q.* And this footprint, was that more or less frozen, in this photograph, in the mud, the next day? *A.* No sir.

*Q.* It hadn't been disturbed? *A.* No sir.

### NUNCIO DE GAETANO

*Direct examination by MR WILENTZ:*

The witness had been connected with the state police for nearly six years. He reached the Lindbergh home at eleven-fifteen on the night of March 1, 1932, and went to the nursery. He corroborated the placement of the furniture in the nursery and said that a person entering through the southeast window would have a clear path to the crib, with the table no obstacle to his progress. Outside the house, he said, he found a footprint, a second indentation, and then two holes, "longer than they were wide" near the boardwalk. He saw a woman's footprint near by, and later saw the ladder, sixty-five or seventy feet from the east wall of the house. He identified the ladder [8-32] as the one he saw [*without the various clips and markers*] on the night of the crime.

De Gaetano said the footprint measured between twelve and twelve and one eighth inches in length, and approximately four and one quarter inches in width. In the print were "ridges." The print faced towards the house.

*Cross-examination by MR REILLY:*

The ground near the footprint was soft and muddy. Witness saw only one footprint and couldn't find where "he" had put the other foot. Made no examination of the bottom rung to find if there were mud on it.

*Q.* You saw this footprint with your flashlight? *A.* Yes sir.

*Q.* And did you kneel down and measure it? *A.* I didn't kneel down.

All I had to do was just—standing on the boardwalk—all I had to do was just kind of lean forward and measure it with the flashlight.

*Q.* Did you ever measure it with a tape? *A.* No sir.

*Q.* You have given between twelve and twelve and one eighth. Is that correct? *A.* Yes sir.

*Q.* And you can come by that accurately with a flashlight? *A.* Yes sir. I think I can.

*Q.* Accurately? *A.* Well, I had a five-cell Eveready flashlight, and that is fourteen and a half inches long. I measured it with the flashlight.

Q. Well, you couldn't measure with the flashlight by putting the flashlight into the ground? *A.* No sir, but what I mean to bring out is that I measured from the rear end of the flashlight and the print ended just about where the groove is on the other side of the switch.

Q. Well then, you are giving us your best guess, isn't that it? *A.* Yes sir, just about it.

Q. And on width it is the best guess, is that correct? *A.* Yes, I measured that with the palm of my hand.

Q. And you don't know whose footprint it is, do you? *A.* No sir, I don't.

AMANDUS HOCHMUTH

*Direct examination by MR WILENTZ:*

The witness was in his eighty-seventh year and had lived in Hunterdon County for ten years. He had served in the Prussian army. On March 1, 1932, he was living at "the corner of what they call the Mercer County Highway and the road that goes up to Mr Lindbergh's place." On the morning in question he was out of doors.

Q. Tell us about your experience that morning. *A.* Well, I saw a car coming around the corner, pretty good speed, and I expected it to turn over on the ditch. And as the car was about twenty-five—I should judge twenty-five feet away from me, the man in there looked out of the window like this.

Q. Out of the window of the car, you mean? *A.* Yes, and he glared at me as if he saw a ghost.

Q. What time of the day was that? *A.* It was in the forenoon.

Q. And the man that you saw looking out of that automobile glaring at you in the manner that you say, is he in this room? *A.* Yes.

Q. Where is he? *A.* Alongside of the trooper there.

Q. Alongside of the trooper? *A.* Yes. [*Pointing his finger.*]

Q. Would you mind stepping down, please, and showing us?

MR REILLY: I object to that until he first points out the man from where he sits.

MR WILENTZ: He did that.

MR REILLY: No, he did not. He said a man sitting next to the trooper.

MR WILENTZ:

Q. Which side of the trooper? *A.* The man sitting between the trooper and the other man with the white shirt on.

MR WILENTZ: Now may the gentleman come down without objection?

THE COURT: I think so.

[*The witness came down from the stand and advanced in the direction where the defendant Hauptmann was sitting.*]

MR WILENTZ:

Q. Will you please put your hand on his shoulder?

THE WITNESS: Right here. [Touching the defendant with his hand.]

MR WILENTZ: May we have on the record, "Indicating Bruno Richard Hauptmann"?

Q. You were telling us a minute ago about the car coming around the corner. Did it come around your corner? A. It couldn't have come any other way but from Hopewell.

MR REILLY: I move to strike that out.

MR WILENTZ: That is all right; we consent to it.

Q. And when it made the turn into the lane, did it proceed or did it stop? A. It stopped as it got in the ditch.

Q. Did it get into the ditch? A. Not yet; but it stopped there, and he pulled the ladder over to him.

Q. You say that he stopped as he got into the ditch in making the turn? A. Into the ditch.

Q. Did the car stop at all for any period of time? A. Well, I should say about quarter of a minute, or something like that.

Q. Now, you said just now something about a ladder; was there a ladder in the car? A. I saw something, some of the ladder in it.

MR REILLY: What is the answer?

[Last answer read by the reporter.]

MR REILLY: I move to strike it out as calling for a conclusion.

MR WILENTZ:

Q. You saw—what did you say you saw? A. I saw—

THE COURT: Just a moment. Won't you repeat the question and answer?

[Question and answer read by the reporter.]

THE COURT: I shall have to decline to strike that out, Mr Reilly.

MR REILLY: May I have an exception?

THE COURT: You may have your exception.

MR WILENTZ:

Q. Do you remember the color of the car? A. Yes, a dirty green.

*Cross-examination by MR REILLY:*

Q. When did you first tell this story to anybody? A. Never spoke to anybody about it.

Q. Before you took the witness stand you never told a soul about what you were going to testify to today, is that correct? A. That is correct.

Q. You give me your word on your oath that that is correct. A. Certainly I do.

An attempt by the defense to force the witness to say that a state trooper had pointed out the defendant to him on the previous day brought

accusations from the attorney general that Mr Reilly was "badgering" the witness. Hochmuth denied the defendant had been pointed out to him.

Q. You say you are how old? A. I am in my eighty-seventh year.

Q. Your health is rather poor, isn't it? A. It don't seem like it.

Q. Well, I notice that you are shaking. A. I have had a good deal of rheumatism.

Q. Did you ever have a stroke? A. No.

Q. Just rheumatism? You say you are shaking from rheumatism and you are eighty-seven years of age? A. Yes.

Q. Are you nearsighted or farsighted? A. My eyes are all right.

Q. I didn't ask you that, mister. You are wearing glasses. Why do you wear glasses—to see better? A. At a distance, yes. For reading, I read without glasses.

The witness repeated that he saw the "dirty green car" on March first, "toward noon." The car was going "pretty good speed", forty or fifty miles an hour.

Q. And there was a turn in the road there? A. You see, I have seen many a one go into that ditch, and I expected to see him going over, but the car stopped, then started up again.

Q. And there were windows in the car? A. Yes.

Q. Was it a cold day? A. Well, I can't exactly state.

Q. What month was it? A. March. You know the weather we have in March.

Q. How many cars had you seen go into the ditch before that? A. I saw seven go in in one week.

Q. When did you last see a car go in the ditch before this particular day? A. I have seen some go pretty near close up to it, but not in.

Q. When, before that day, did you see one almost go in the ditch? A. Well, I saw the Public Service man go in there quite some time before that.

Q. What date? A. I don't remember; I don't pay any attention to those things, except they might drop in and I run over.

Q. How was the man dressed, if you can remember? A. Well, I think he had a dark shirt on.

Q. You think he had a dark shirt on? A. You see, all I took in was the face and these glaring eyes.

Q. Of course you told nobody about this, not even your son-in-law? A. No.

Q. Your daughter? A. No.

Q. Nobody, correct? A. Correct.

Q. So that we have your solemn word before this jury that before you took this stand—am I right? A. Correct.

Q. Nobody in the world knew what you were going to say; is that so? A. Exactly.

*Redirect examination by MR WILENTZ:*

Q. You spoke to me this morning, didn't you, Mr Hochmuth? A. Yes sir.

*Cross-examination by MR REILLY:*

Q. Who gave you the name Hauptmann? A. I saw the name in the papers.

Q. Now, have you ever been in any institution? A. What do you mean?

Q. Hospital? A. I was employed in a hospital once.

Q. Where? A. Poughkeepsie.

Q. Whereabouts in Poughkeepsie? A. Hudson River State Hospital.

Q. When were you employed there? A. I was employed as a kitchen boy.

Q. How long ago? A. Oh, I think that was in '73, '74—1874.

Q. Have you ever been back to that institution since? A. I went back there one summer. My son took me up. Showed me the change that had been made since I was there.

Q. Were you ever in any other institution as an employee or as an inmate? A. No.

Q. Or any hospital? A. No.

### JOHN J. LAMB

*Direct examination by MR WILENTZ:*

The witness was a captain of the New Jersey State Police. The ladder [Exhibit S-32 for identification] had been turned over to him by the witness, Kelly, on June 1, 1932, and he had had it in his custody with the exception of those times in which it was in the possession of Arthur Koehler, of the United States government.

### ARTHUR KOEHLER

*Direct examination by MR WILENTZ:*

Q. You live where, Mr Koehler? A. In Madison, Wisconsin.

Q. And you are connected with the United States government in what capacity? A. I am wood technologist in the Forest Service, which is part of the U. S. Department of Agriculture.

Q. Now on various occasions since this Lindbergh case, have you had—have you received from Captain Lamb, this ladder? A. I have.

Q. And, by the way, will you tell us what is this cut that has been pointed out on No. 2, on section marked No. 1, with this little thumbtack? I notice a cut there. Did you make that cut? A. I did.

Q. This piece of what appears to be a new piece of wood, as compared with the other, did you have that affixed? A. Yes.

Q. And when you got through with it, did you return it to Captain Lamb? *A.* I did.

*Cross-examination by MR POPE:*

Q. Where that light portion of wood is fastened to the side of the section of the ladder, you say you put that on there? *A.* I helped in putting it on.

Q. Why did you put it on there? *A.* That rail was cut in two, and it was put on to bring them back into their original position.

Q. Who cut it in two? *A.* I don't know.

Q. Was it cut in two when it was brought to you? *A.* Not the first time, but subsequently it was.

Q. Was it cut in two while it was in your possession? *A.* No.

Q. Or in your department? *A.* No.

Q. What do you mean, when it was brought to you the first time? *A.* Well, the first time I examined the ladder that rail was not cut in two.

Q. When was that? *A.* That was the latter part of February 1933.

Q. And where? *A.* At the New Jersey State Police training school.

Q. Then you did not see it again until about June 1933? *A.* Why, I saw it off and on then for about six weeks, and saw it again the next fall.

Q. Well, when was it brought to you with one side cut in two? *A.* When I came back here in the fall of 1933 one of the rails had been cut in two.

While the ladder was in his possession the witness removed the nails and cleats, took the ladder apart and put it together again. One of the cross rounds was broken when he first saw the ladder. The ladder was delivered to him by Captain Lamb, at the state police training school near West Trenton. He returned it to Lamb and saw it again in the fall of 1933, at the same place.

MR WILENTZ: Any other questions? I offer the ladder, if your honor please. S-32, for identification, is offered in evidence.

MR POPE: Well, of course, we object to the reception in evidence of this ladder at this time for the same identical reasons which we offered and placed in the record when it was first offered by the attorney general, and for the additional reason that it now appears from the testimony of this witness that he took the ladder apart, that the nails were withdrawn and that they were handed over to someone else; that after he did his experiment or inspection he helped put the ladder back together again and that he used nails that were handed to him by someone else; that he does not know whether they were the same nails that came out of the ladder or not.

It also appears from the testimony of this witness that a saw

cut has been made in one of the rounds of the ladder, which was made by him. It also appears from his testimony that between the time he thus sawed this ladder and the time it was brought to him again, one of the uprights had been sawed in two, so that it was necessary to attach a small piece of light-colored board to it in order to hold it together. The ladder, therefore, is not in the same condition that it was, or in approximately the same condition; and it is not shown to be in the same condition it was when it was discovered, as is testified here, on the Lindbergh estate. It has been taken apart, put together again; nails that may play a very important part in this case have been drawn out of it, and the gentleman says he does not know whether the same nails were put back together, or whether they were put back in identically the same holes that they came out of.

In addition to that, sir, it appears from this witness's testimony that the ladder has been in Washington, that somebody else has had possession of it; that it has been here, there and at various places, and its course has not been traced, nor have we had an opportunity to examine as yet all of the men that have had the custody and the handling of this ladder, between the time it was found and today, when it is being offered in evidence.

And there is still another reason, and a very great reason, and a very strong reason: there is absolutely no connection either by circumstance or by direct evidence between this ladder and the accused, and until this ladder has been placed in the possession of the accused, or until there is some evidence in this case which would tend to show or which would be sufficient to go to the jury, to have them consider whether or not the ladder was ever in the possession of the accused, this ladder is not evidential against this accused.

I submit that it is well-established law that wherever any, whenever any, where any article, whenever any article or personal property is desired to be introduced in evidence, as evidence against an accused, there must be some connection established, be it slight, between the personal property and the accused before it can be admitted in evidence.

It may be admitted for identification until that proof is complete, but until there is something in this case to show that Mr Hauptmann, the defendant, was in some way either directly, immediately or remotely connected with this ladder, it is not evidential and should not be admitted in evidence.

MR WILENTZ: Your honor, please, taking the last suggestion of counsel and reason first, we represent to the Court and to our adversaries that we will connect this ladder with Mr Hauptmann, but that is beside the point altogether. We have already connected it so far as the scene of this crime is concerned and as being the ladder, and it is certainly evidential as to that.

## TRIAL OF BRUNO RICHARD HAUPTMANN 197

My understanding of the objection the other day was that the only thing that was left was the question of connecting up the custody of this ladder and to whose custody it was in. We have now proven that and counsel has shifted on the theory that someone said it had been in Washington at one time, and if your honor may remember, I will call it to counsel's attention that while Trooper Kelly was on the stand he said that that ladder was in his custody continuously, that during that time he took it to Washington for tests, but he was there, locked it in a safe at night and took it out in the morning and then brought it back and in June he delivered it to Captain Lamb. Now we produce Captain Lamb and we connect the possession of the ladder with Captain Lamb for the entire period except for those periods that the government agent had it in his custody, when he performed on it in such manner as he will testify at a later time.

So that we have proved the custody. Now there is some objection about the nails. I take it, after all, that this is not a crossword puzzle, that we are all supposed to be of average intelligence and if these are not the same nails, that will develop. May I say to your honor and to counsel, that we promise your honor that we will show everything there is to be shown about the nails too. But this is the ladder that was on that scene according to the man that was there. We have connected it step by step into the hands of this man and back to Captain Lamb for three years and we will run it right into Hauptmann. Now if that is what they want, I promise your honor that it is certainly evidential.

MR POPE: I do not want to prolong the argument, if your honor please, but we are not willing to accept that promise because we do not know what they think or consider or believe in their own minds to be in the nature of circumstances which may connect this ladder with the defendant. We are here defending a man for his life and his every right must be and will be protected by this Court, and we insist that this ladder shall not be admitted in evidence in this case as evidence against him until he is shown to have been connected with it in some way. Now, my objection to the ladder goes further than the attorney general seems to think it does. Our objection is, of course, that it has not been shown who had possession of this ladder and what each person did with it every time it passed from one hand to another. Kelly didn't say who had it or who used it or what they did with it in Washington.

We don't know what has been done to this ladder until we have the witnesses on the stand and are permitted to cross-examine them and find out what they did with it. For instance, it was testified here this morning that this ladder was, I think, examined by the Lochard process by somebody, for the purpose of developing latent fingerprints on it. We want to know who that man was. We want

him on the stand ; we want to find out what he did with that ladder when he had it. We have a right to know what he did with it. We want somebody to swear what happened to that ladder when it was in the possession of this man, Doctor Hunter, I think it was, or whatever his name was.

And so with each and every man who has had this ladder, who has experimented with it, who has done something to it, who has taken it apart, who has changed this ladder from the time it was found down to the present day.

Our objection is also that the ladder is not in the same condition that it was found, that it has been changed. They have sawn pieces of wood off of it, and they have sawed it in two, and they have taken it apart, and they have tried to put it back together again—and with what nails?—we don't know where the nails came from or who put them there. It is all very well for the State to say, "We are going to connect up this ladder with the defendant"; but our duty and our obligation to a man on trial for his life is to see that the ladder is connected up and brought home to him before it is permitted to go in evidence in this case, and that is what we appeal to your honor to help us to do.

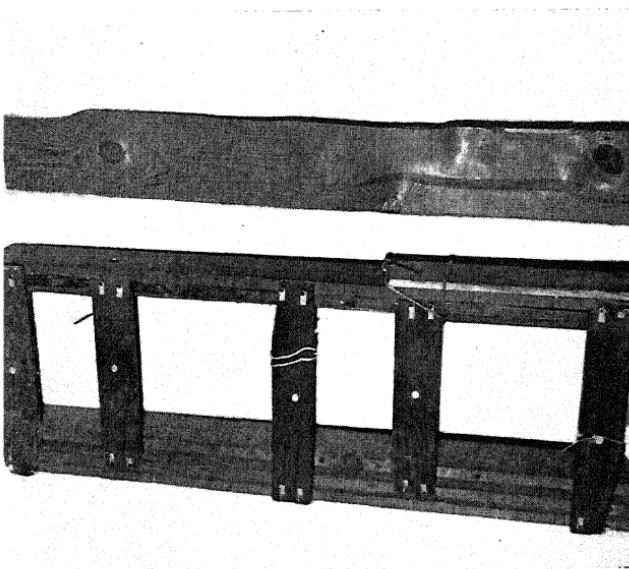
THE COURT: This ladder has already been marked, I think, for identification. I do not seem to have much doubt in my own mind at the moment that certain parts of this ladder certainly are now admissible in evidence ; the framework of it is, especially such parts of the framework as do not appear to have been disturbed—I think that they are admissible in evidence. There are certain phases, changes, admitted changes, that perhaps ought to be or will be further developed as the case proceeds ; and then, too, there is the question of nails. I do not know what figure nails cut in this case, but counsel seem to have some ideas upon that subject. Now, perhaps that ought to be the subject matter of some further examination ; and for the purpose of allowing those phases of the matter to develop, following the plan suggested by the attorney general, that he defer his motion for the admission of this ladder as the thing now stands, as a whole, until later, when there has been an opportunity to inquire more minutely into these changes which have been referred to. So that for the moment I think that I will defer the admission of this ladder in evidence.

MR WILENTZ: All right. Mr Koehler, will you step down? Mr Kelly, will you please take the stand again?

FRANK A. KELLY [*recalled*]

*Direct examination by MR WILENTZ:*

The witness was not present when the section of the ladder S-32 was sawed apart and did not know who sawed it.



The kidnap ladder and a piece of wood found in Hauptmann's attic which experts proved to be from the same board.



ARTHUR KOEHLER  
government wood expert, whose work in tracing the material used in the kidnap ladder is recognized as one of the greatest feats of scientific detection of all time.



## JOHN J. SWEENEY

*Direct examination by MR WILENTZ:*

The witness, a lieutenant of the Newark, New Jersey, police force, said he assisted in the experiment in which two sections of the ladder were raised against the east wall of the Lindbergh home. He saw marks on the masonry where the top of the ladder had rested, or slipped, on the wall.

Q. When you put this ladder up against the building with the two sections, what have you to say as to whether or not the dimensions or the distance between those two marks was or was not approximately the same distance between the top rung of the ladder? *A.* They were identical.

Q. Did you go up on another ladder? *A.* I did.

Q. So you were standing on another ladder while you were making the test, is that it? *A.* Yes.

Q. Now, did you take some sort of an instrument which permitted you to magnify those marks and inspect them with a magnifying glass? *A.* I did.

Q. When you did that, applying the magnifying glass to those marks that you just referred to, what did it reveal? *A.* Particles of wood, small splinters.

Q. So that there were particles of wood in the marks that you referred to a minute ago, imbedded into the stone or whatever it is there, that the side of the building is made of. Is that it? *A.* That is right, yes sir.

Q. Now, while you were making this test with the other ladder, did you have a rung of that ladder which paralleled the top of the second section of S-32 for identification? *A.* We did.

Q. And from that point did you walk into that window, or didn't you? *A.* I did.

Q. Did you have any difficulty getting in? *A.* No sir.

Q. How much do you weigh, sir? *A.* About a hundred and eighty.

Q. How much did you weigh at that time? *A.* One hundred and seventy-five.

Q. Did you step in, then, from this other ladder that we speak of . . . from about the point where those marks were, and into that nursery window, the southeast window? *A.* We did. . . .

Q. How did you get in? *A.* Put my left knee up on the window sill and then squirmed around and put my right foot in and stepped down on the floor.

Q. Did you, in doing that, disturb the suitcase that was there, if there was a suitcase? *A.* I did not.

Q. Did you get into that window without knocking that suitcase over? *A.* Yes sir.

*Cross-examination by MR REILLY:*

The witness arrived at the Lindbergh home about dusk of March 2, 1932. He discovered the marks on the wall, but could not say how old they were or when they were made. The experiments were performed the following day, and he was aided by "half-a-dozen" troopers. In his experiment he never went up into the nursery, closed the windows or drew in the shutters, and the window was open throughout the experiment.

Q. What would you hold on to, after your hands and the upper part of your body got above the top rung? *A.* The window casing.

Q. You reached up, did you? *A.* It was right in front of me.

Q. How did you balance yourself when your hands got above the top of the rung? *A.* I grabbed hold of the casing, the window.

Q. You reached up? *A.* Yes sir.

Q. Did you hold on the side to steady yourself? *A.* I don't recall whether I did or not.

Q. But if you are down on the third rung, how many feet down is that? *A.* From the top rung to the third rung?

Q. From the top edge, two and a half or three feet? *A.* It is more than thirty inches.

Q. When your foot is on the third rung, your hands are up in the air, is that correct? *A.* Yes.

Q. And you are still sixty inches away from the window, because the top of that ladder was thirty inches away from the sill, you have told us. So you are five feet away from there. You haven't a five-foot reach, have you? *A.* I have got a seven-foot reach.

Q. Of your arm? *A.* From my shoes.

Q. You did not have gloves on? *A.* No sir.

Q. Now what did you do as you swung out [*of the window*]-feet first, is that correct? *A.* That is correct.

Q. Then you would make a half turn, right? *A.* Right.

Q. And what would you do with your right arm? *A.* Hold on to the window case.

Q. What did you do with your left arm? *A.* Held on to the window sill.

Q. Both arms were busy? *A.* Yes sir.

Q. And then you would lower yourself thirty inches, until you felt the grip of the ladder? *A.* Yes sir.

Q. Still hold on, and reach down, wouldn't you, to get a purchase, to balance? *A.* Yes.

*Redirect examination by MR WILENTZ:*

The witness placed the ladder together and showed by measurements that the rungs were from eighteen to nineteen inches apart, or about six inches farther apart than is usual in ladders, indicating, in his opinion,

that it was adapted to a "long-legged" man. He said he had no difficulty in coming out of the window and that he could have come out with a package, although he would have had to "lay the package down."

## JOHN JOSEPH PERRONE

*Direct examination by MR WILENTZ:*

In March 1932 he was a resident of the Bronx and drove a taxi. On March twelfth he had occasion to visit the home of Dr John F. Condon, at 2974 Decatur Avenue.

Q. What was the occasion of your visit to the home of Doctor John F. Condon? *A.* I had a man give me an envelope addressed to Doctor Condon.

Q. Who is the man that gave you that envelope? *A.* Bruno Richard Hauptmann.

Q. Is he in the room? *A.* Yes sir.

Q. Come down and point him out, please. *A.* *[Witness places his hand on shoulder of man in the courtroom.]* That is the man. *[Indicating the defendant, Bruno Richard Hauptmann.]*<sup>1</sup>

Q. Tell us the circumstances under which this note or paper was given to you which you just stated you delivered to the home of Doctor Condon in March. *A.* I happened to be on a hack stand at Mosholu Parkway and Jerome Avenue in the Bronx, March twelfth. While on the hack stand I had a young man ask me to drive him to 3440 Knox Place. After discharging this fare, I drove east, on Gun Hill Road, and at Knox Place and Gun Hill Road a man came running to me with his hand raised, motioning me to stop. I stopped my cab and this man tried to open the front right side of my door, and I motioned to this man to wait a minute, that I would lower the window, which I did. This man kept looking around first, before he ever said a word to me. When he did, he asked me if I knew where Decatur Avenue was. I told him I did, that I was familiar with the neighborhood. With that he put his hand in his overcoat pocket and brought out an envelope. Looking at the envelope, he said, "Do you know where 2974 is?" I said, "Yes, I am familiar with the neighborhood." This man, looking around again, put his hand into the very same pocket and gave me a dollar bill to deliver the envelope.

Q. Did he ask you to deliver it? *A.* No sir, he did not.

Q. Just gave you the envelope and a dollar? *A.* Yes sir, and when he did that, he walked to the rear of my cab and put his hand in his pocket; now, I don't know which it was, and taking down my license-plate number.

<sup>1</sup>At this point the defendant muttered at the witness, "You're a liar." Mr Reilly attempted to get the words into the court record, but failed.

*Q.* He was writing something? *A.* He was writing something.

*Q.* And when he was writing, right immediately prior to his writing, were his eyes focused or directed at anything, as you saw it, as you saw it? *A.* Yes sir.

*Q.* What was it? *A.* Right at the license-plate number.

*Q.* How did it happen that you observed that, when you are seated in front and he is in back? *A.* Well, the way he acted, I had my eyes on him—from the moment he gave me the note and started speaking to me.

*Q.* Where did you go then? *A.* I drove south on Jerome Avenue, the Bronx. When I passed the hack stand I showed this letter with the dollar. I wave it to another cab driver on the hack stand that I had just previously left.

*Q.* What was his name? *A.* James O'Brien.

*Q.* Did you then proceed? *A.* I delivered the envelope.

*Q.* When you got to Doctor Condon's home, what did you do? *A.* I rang the doorbell.

*Q.* Who came to the door? *A.* Doctor Condon.

*Q.* And what happened? *A.* I gave the envelope to Doctor Condon.

*Q.* And did you give him your name or anything? *A.* Yes sir, I did.

*Q.* And you left? *A.* I left.

*Cross-examination by MR REILLY:*

The witness said that at the present time he was driving a taxi and holding a job with the CWA. He denied he had been given work with the CWA through the influence of persons connected with the case. The remainder of the cross-examination was taken up with testing the witness's memory of other events and other passengers he had carried on March twelfth.

*Redirect examination by MR WILENTZ:*

The note given to him, the witness said, by the defendant, was the only note he received that day, and the only note he was ever asked to deliver to Dr Condon.

JAMES J. O'BRIEN

*Direct examination by MR WILENTZ:*

The taxicab driver mentioned by the previous witness corroborated the story of having seen the note Perrone had been asked to deliver to Dr Condon.

P. MILTON GAGLIO

*Direct examination by MR WILENTZ:*

The witness was an acquaintance of Dr John F. Condon and was in the restaurant of Max Rosenhain, in the Bronx, on an evening in March

## TRIAL OF BRUNO RICHARD HAUPTMANN

1932 when Dr Condon entered and called the Lindbergh home on telephone. As a result of the telephone call the witness, accompanied by Rosenhain, drove Dr Condon to Hopewell, returning to New York the following morning.

*Q.* Now, after that day or that night, did you have occasion to be in Condon home? *A.* I did.

*Q.* When? *A.* It was a Saturday. I think the date was the twelve.

*Q.* Were you in the Condon home when a man by the name of Perrone drove up to the Condon home? *A.* I was.

*Q.* What did you do that night with reference to Perrone? *A.* Doctor Condon accepted the note I checked with Perrone's account.

*Q.* What do you mean, you checked? *A.* He had given his name. I took his shield number from the tag he was wearing on his . . . and verified it with the identification card within the car.

*Q.* What did you do with this information? *A.* I kept it . . . several members of the police department were insistent about it, and then I turned it over.

### *Cross-examination by MR REILLY:*

The witness had known Dr Condon for many years. Did not know what degrees he had. Did not know at that time whether or not Dr Condon had a telephone in his own home. "Rosie's" restaurant was a five minutes ride by automobile from Dr Condon's home. Denied Dr Condon "directed" the route by which he drove to Hopewell.

## MAX ROSENHAIN

### *Direct examination by MR WILENTZ:*

Witness was proprietor of restaurant from which Dr Condon phoned to Hopewell. He had known Dr Condon for ten years or so as a regular customer. He corroborated the witness Gaglio's story of trip to Hopewell with Dr Condon.

### *Cross-examination by MR REILLY:*

Dr Condon frequented his restaurant, sometimes twice a week, sometimes six times a week. Dr Condon lived within a twelve-minute walk distance from the restaurant.

## ALFRED JACOB REICH

### *Direct examination by MR WILENTZ:*

The witness had known Dr Condon since before 1925. On a night in March, 1932 he drove Dr Condon in his automobile to the last stop on the Jerome Avenue subway, about 8:30 or 9:00 P.M.

Q. Where did you go with Doctor Condon? *A.* We drove up to, at that time in the month of March, a deserted frankfurter stand about a hundred feet, I think, north of the last station on the Jerome Avenue subway.

Q. Then what happened? *A.* Doctor Condon got out and went over on to the porch and there was a stone there, about that big. [*Indicating with his hands.*]

Q. What did you see happen, if anything, with reference to this stone and Doctor Condon? *A.* Doctor Condon got out of the car and went over to the porch and picked up the stone, found a note under it.

Q. Did you see him find the note? *A.* I did.

Q. And what happened then? *A.* He came back towards the car and there was also an electric light at that time and he stood there, opened the note and read it.

Q. Then what happened from that point? *A.* He got back into the car. And I drove across the street on which side is located Woodlawn Cemetery, and I followed Woodlawn Cemetery north to 233rd Street.

Q. What did you do then? *A.* I parked.

Q. What did Doctor Condon do? *A.* Doctor Condon got out and stood in the triangle there in front of the entrance to Woodlawn Cemetery.

Q. Now, how far away from the nearest gate to you was it that you parked your car? *A.* Well, I was probably thirty or forty feet away from it.

Q. Then, you say, Doctor Condon got out? *A.* Yes.

Q. What happened, sir? *A.* Well, he stood there for about ten or fifteen minutes, and it was a very cold night, and then he came back to the car; he was a bit discouraged, and he sat with me in the car for maybe about five minutes. Then I saw someone come walking down south on our side of the street.

Q. Did you see that figure of the man that you saw crossing the street, and if you did, where did you see him go? *A.* He continued on right straight down Jerome Avenue.

Q. Did he pass your car? *A.* Yes.

Q. And then what happened? *A.* After the doctor stayed there for about five or ten minutes he walked over to the gate. I couldn't hear anything, because I had both the door and the window closed.

Q. Then what did you see happen? *A.* I saw a fellow come down off the gate, the cemetery gate.

Q. About how high was that cemetery gate? *A.* I would judge about nine feet.

Q. And when you say you saw a man come off the gate, what do you mean? *A.* He came down after coming up on it from the inside, to come out over the gate.

Q. I mean, did you see him jump off? *A.* Yes, I saw him jump off.

Q. Jump off the gate of Woodlawn Cemetery? *A.* Yes.

Q. Now, prior to his jumping, did you see him get up on the gate? *A.* No, I didn't. I couldn't see him, but I saw the doctor there talking to someone for maybe ten minutes.

Q. Did you see the doctor and can you tell us which side of the gate he was on? *A.* The doctor was on the outside.

Q. When you say the outside, you mean that part, that side of the gate nearest the street? *A.* Yes sir.

Q. Now, when you saw this man jump off, he landed, I suppose, out in that portion or somewhere near where Doctor Condon was? *A.* Yes.

Q. What happened then? *A.* He ran.

Q. And in which direction did he run? *A.* He ran north into Van Cortlandt Park. Van Cortlandt Park above 233rd Street is on both sides of Jerome Avenue.

Q. What then did you see, if anything? *A.* The doctor followed him.

Q. How? *A.* They went in, about a couple of hundred feet, I imagine.

Q. Well, if you didn't see it, I am afraid you won't be able to imagine. You tell us how far your eyes followed him, if they followed them at all, either one of them? *A.* It did, it followed them into where there was a shack, with a park bench alongside of it.

Q. And could you see them go to that shack? *A.* Yes, I could.

Q. The night was clear? *A.* It was a clear night.

Q. Would you be able to recognize that shack if you saw it? *A.* Oh yes.

Q. Will you take a look at that? *A.* That is the shack.

Q. Is that a correct picture of the shack? *A.* I think so.

Q. Has the position of that shack been changed since that time or is it the same to the best of your recollection? *A.* I think it is the same.

Q. You think the position is the same too? *A.* Yes.

Q. And what happened then? *A.* They sat down on the park bench.  
[*Photograph of shack offered in evidence. Exhibit S-41.*]

Q. And how long did you wait there—did you continue to wait in your car? *A.* Yes sir, an hour, about an hour.

Q. You didn't time yourself, I suppose? *A.* No, I didn't.

Q. And when— *A.* It was a cold night; it felt like a week.

Q. And finally Doctor Condon returned, I take it? *A.* Yes sir.

Q. And where did you go then? *A.* Went back to Doctor Condon's house.

Q. When they got to that shack in the park, referred to as S-41, did you see them sit down? *A.* Yes sir.

Q. What were their positions, were they close or far away, or what? *A.* I thought they were sitting quite far away, as far as they could, almost, both sitting on the one bench.

## SIXTH DAY

*Flemington, N. J., January 9, 1935.*

**A**LFRED J. REICH resumed the stand.

**MR WILENTZ:**

Q. On April 2, 1932, and particularly the night that Colonel Lindbergh and Doctor Condon left in an automobile, were you at Doctor Condon's home? *A.* Yes sir.

Q. Did you have your automobile there? *A.* Yes sir.

Q. Who else was in the home besides you and Doctor Condon and Colonel Lindbergh? *A.* Colonel Breckinridge; I think Ralph Hacker was there.

Q. Who is Ralph Hacker? *A.* Doctor Condon's son-in-law.

Q. Was Mrs Condon there? *A.* Yes, Mrs Condon was there, and Mrs Hacker, Doctor Condon's daughter.

Q. Did you go with Colonel Lindbergh and Doctor Condon in the car that night? *A.* No.

Q. Whose car was used, if you know? *A.* I suggested that they use my car.

Q. Did they use your car? *A.* Yes sir.

Q. And do you know who drove it? *A.* Colonel Lindbergh.

Q. When Colonel Lindbergh and Doctor Condon left did they take any package or parcel with them? *A.* They took a box containing \$70,000.

Q. How do you know it was \$70,000? *A.* I was there when it was packed up and helped bring it up from the banker's home.

Q. Who did you help bring it up? *A.* I came up with fifty of the seventy in the car with Colonel Lindbergh.

Q. When you say came up with fifty of the seventy with Colonel Lindbergh, when was that and from where did you come? *A.* It was the afternoon of the night of the final pay-off.

Q. The afternoon? *A.* Yes. I drove down with Colonel Breckinridge to the banker's home and we met Colonel Lindbergh down there.

Q. Who was the banker? *A.* Bartow.

Q. And there, as I understand it, you and Colonel Lindbergh got some money and drove to the Condon home? *A.* Yes, we took the fifty in Colonel Lindbergh's car and Colonel Breckinridge took the twenty in his car.

Q. And so that finally, when you got to the home, you say that you saw and helped pack this money? *A.* Yes sir.

Q. What was it packed in? *A.* It was packed in a wooden box made of 5-ply veneer.

Q. Were you present when that wooden box left with Colonel Lindbergh and Doctor Condon? *A.* Yes sir.

Q. How long did you stay in the house that night? *A.* I stayed there until they came back.

Q. About what time did they come back? *A.* Probably a half or three quarters of an hour.

Q. Who stayed with you when you were there? *A.* Colonel Breckinridge, Mrs Condon, Mrs Hacker and Ralph Hacker.

*Cross-examination by MR REILLY:*

Q. Mr Reich, are you engaged as a sort of a bodyguard for Doctor Condon? *A.* No sir.

Q. Did Doctor Condon ever have a boat? *A.* A rowboat.

Q. Did he ever have any cabin cruiser? *A.* No sir.

Q. Were you and the doctor in the habit of visiting City Island? *A.* I live there.

Q. Well, I mean, would the doctor come up and visit you? *A.* He came up to his place on City Island.

Q. Were there any conferences concerning this kidnaping held with your knowledge and consent, or did you participate in any, at City Island? *A.* No sir.

Q. Coming down to the day concerning the ride with the \$50,000, up to that time, Doctor Condon, as far as you know, had never received any notice of where, when or how to pay the \$50,000, had he? *A.* No sir.

Q. At whose suggestion was the \$50,000 or \$70,000 taken from the banker's home that day? *A.* Anything that took place at the time was done by and with the consent of Colonel Lindbergh and Colonel Breckinridge and Doctor Condon.

Q. Did you hear Doctor Condon suggest that day or that afternoon that it would be a good idea to get the money up in the Bronx that night? *A.* No sir.

Q. Did you hear Colonel Lindbergh say it would be a good idea to have the money up here tonight? *A.* No sir.

Q. Did you hear Colonel Breckinridge say it would be a good idea to have the money up tonight? *A.* No sir.

Q. As a matter of fact, as you recall it, there was no plan to have the money there that night? *A.* Well, there was when we went down in the afternoon for it.

Q. Who suggested going down for it? *A.* I don't know.

Q. You see, according to the testimony, there hadn't been any note found under the florist's table to pay the money within thirty or

forty-five minutes, had there? *A.* No. There was a note came by taxicab, directing them, as I understand it, to go to the florist's table or under the table.

*Q.* After the money arrived in the Bronx? *A.* Yes sir.

*Q.* Who knew the money was to be in the Bronx that night? *A.* Colonel Breckinridge, Colonel Lindbergh, Doctor Condon—

*Q.* Doctor Condon? *A.* And myself.

*Q.* So that after the money is there in the Bronx comes a letter to go here, go there and pay it off in thirty minutes? *A.* Yes sir.

*Q.* Well now, you knew they were going out to pay the money, didn't you? *A.* I walked out to the car with Colonel Lindbergh and Doctor Condon.

*Q.* Was there any other car there? *A.* No sir.

*Q.* Did you follow them? *A.* No sir.

*Q.* Why didn't you? *A.* There was no following at any time. They—

*Q.* Why didn't you follow them that night? *A.* Nobody told me to follow them. I—

*Q.* But you were very much interested? *A.* Certainly.

*Q.* You knew they were going to pay some unknown person some money? *A.* Yes.

*Q.* Didn't you think it would be a good idea to go along and capture that person? *A.* That was all talked over with the Police Department and the Department of Justice, and all the men that were interested in that.

*Q.* Do you mean to say that the Police Department of the City of New York knew that there was going to be a payment that night? *A.* Yes sir.

*Q.* At that place? *A.* No sir; nobody knew that until they got to the florist's.

*Q.* And that information came from Doctor Condon, didn't it, when he picked up the supposed note? *A.* Yes sir.

*Q.* You weren't there, were you? *A.* No sir.

*Q.* Nobody knew there was to be any pay-off that night but Doctor Condon, did they? *A.* Yes sir.

*Q.* Who? *A.* Colonel Lindbergh, Colonel Breckinridge and myself knew it.

*Q.* When the note came from the taxicab driver? *A.* When the note came.

*Q.* Why didn't you notify the police then? *A.* I don't know. I wasn't one the executives in this: I was just a dot on the "i". [Laughter.]

THE COURT: Let us understand about this thing. Unless the people can keep reasonably quiet in this room, there is no alternative, but the rule will have to be to clear the courtroom. Now I suppose the people would like to stay here, and if they want to stay here, they will have to keep reasonably quiet. Proceed, sir.

Q. And you made no effort to follow and protect them, is that right?  
A. Yes sir.

DR JOHN F. CONDON

*Direct examination by MR WILENTZ:*

The witness said he was seventy-four years old, that he lived in "the most beautiful borough in the world, the Bronx", and that his college degrees included bachelor of arts, master of arts and doctor of pedagogy. On April 2, 1932, he went out in an automobile, with Colonel Lindbergh at the wheel, at about eight o'clock in the evening. In accordance with instructions received in a note, he went to Bergen's florist shop, found a note under a stone at that place and then walked down Whittemore Avenue.

Q. Did you meet a man there? A. I did.  
Q. Did you have with you some time or other that night, you and Colonel Lindbergh, a box of money? A. The colonel had the box of money with an extra package besides.  
Q. Did you give some money in a box that night? A. I did.  
Q. Who did you give that money to? A. John.  
Q. Who is John? A. John is Bruno Richard Hauptmann.  
Q. Now let's get back to where we started—where we should start. In March 1932, as the result of a letter or advertisement you inserted, did you receive a note?

MR FISHER: That is objected to as being leading. The question should be what he received.

MR WILENTZ:

Q. As the result of an advertisement or letter or whatever it was that you caused to be published, did you receive any response? A. I did.  
Q. What was it that you received? A. I received a letter with a peculiar signature upon it.

*[The witness identified an envelope and two notes that had been sent to him through the mails, and the documents were admitted in evidence.]*

MR WILENTZ: May I read these, please, if your honor please?

THE COURT: Yes.

MR WILENTZ: *[Reading to the jury.]* This envelope is addressed to Doctor John F. Condon, 2974 Decatur Avenue, New York. That is Exhibit S-42, one note.

"DEAR SIR: If you are willing to act as go-between in Lindbergh case, follow strictly instructions. Handle enclosed letter personally to Mr Lindbergh. It will explain everything. Don't tell anyone about it. As soon as we find out the press or police is notified, everything are cansell [*c-a-n-s-e-l-l*], and it will be a further delay.

"After you gets the money from Mr Lindbergh put them words in the New York *American*; money is ready. After that we will give you further instructions. Don't be afraid. We are not out for your thousand dollar [*dollar sign after the thousand*]. Keep it only act strictly. Be at home every night between 6-12. By this time you will hear from us."

Together with that Exhibit S-43—you notice this exhibit has no symbol on it—inside the envelope S-45.

"Mr Colonel Lindbergh Hopewell"; "DEAR SIR: Mr Condon may act as go-between. You may give him the seventy thousand \$. Make one packet. The size will be about [*here you will see the drawing of the size*] 6 by 7 by 14. [*The dimensions you see there.*] We have notified you already in what kind of bills. We warn you not use any trap in any way. If you or someone else will notify the police there will be a further delay. After we have the money in hand we will tell you where to find your boy. You may have a air plane ready, [*r-e-d-y*]. It is about 150 miles away, but before telling you the adr. a delay of 8 hours will be between."

Then the circles with the three holes and the red center.

Q. Now, when you received that envelope with the papers which have just been marked in evidence, what did you do, sir? *A.* I came home late that night. I usually lectured in four places. One of them was the Silesian Order; it is a Catholic order in New Rochelle; the other the College of New Rochelle; third, at Fordham University and last, at the Woolworth Building in the lower part of the city.

Q. Late, you say? *A.* Around ten or eleven.

Q. And when you got home at ten o'clock— *A.* I found my letters, as I usually asked them to be placed, by a Tiffany clock that we happen by chance to have.

Q. Did you find that letter on that particular night? *A.* I found that letter on that particular night.

Q. And what did you do then, sir? *A.* As soon as I read it, I thought it was strange, and I felt rather pleased to think that I was honored. So I took that over to 188th Street and Concourse in order that I might meet the man who had so kindly driven me so many miles in different places in our borough, Alfred J. Reich.

Q. Now, when you got to that place, did you find Mr Reich? *A.* He was not there.

Q. And then, what did you do, sir? *A.* I went to Mr Rosenhain—

Q. As a result of what you said to Mr Rosenhain, or anybody else, what did you do, sir? *A.* I took the letter out of my pocket and tele-

phoned its contents to a gentleman at the other end of the wire at a place called Hopewell.

Q. What time was that, about? *A.* As nearly as I could judge, I would say between eleven and twelve.

Q. Of course you had a telephone in your home, did you not? *A.* Yes sir.

Q. Why did you not use your house telephone? *A.* I never used my house telephone with anything that will annoy my family.

Q. And so you went to Rosenhain? *A.* I went to get Alfred Reich. I didn't go to telephone first.

Q. As a result of the telephone conversation you had with somebody at the other end at Hopewell, did you go anywhere that night? *A.* I went from that telephone booth to Hopewell, New Jersey, the residence of Colonel Lindbergh.

Q. Who was with you? *A.* Milton Gaglio and Maxie Rosenhain, the proprietor of the restaurant.

Q. Did you meet Colonel Lindbergh that night or early the next morning? *A.* I met Colonel Lindbergh that night, that is, in the morning, as you say; it was after twelve o'clock, yes sir.

Q. Who else was there with you, sir? *A.* Colonel Breckinridge and one or two officials of some kind; I didn't pay attention to anybody but Colonel Lindbergh and Colonel Breckinridge. They were the two celebrities that I went to see.

Q. And did you return that morning, or did you stay there that night? *A.* I stayed there all night at the suggestion of Colonel Lindbergh.

Q. Where did you sleep that night? *A.* I slept in the baby's nursery.

Q. And, Doctor, that night and the next morning, I take it you and the family talked, Colonel Breckinridge and all? *A.* We did, yes.

Q. And as a result of that, did you cause an advertisement to be put in the New York *American*? Through Colonel Breckinridge did you cause an advertisement to be placed in that paper, and will you take a look and see if that is a true copy of the advertisement? *A.* [Witness examines paper *Mr Wilentz* hands him.] Yes sir.

[Paper referred to was received in evidence and marked State Exhibit S-46.]

Q. The advertisement referred to in the Exhibit S-46 in the New York *American*: "I accept. Money is ready. Jafsie."

Q. What happened to the note and the letter that you had gotten to Colonel Lindbergh and to yourself, that is, Exhibit S-43, and the papers that came together with it in the envelope, S-42? The first letter, I am talking about, with the enclosures. Did you leave them with Colonel Lindbergh? *A.* I left them with Colonel Lindbergh. I took no letters back with me at any time.

Q. Did you get a response to your ad, "Money is ready, I accept", or anything to that effect, S-46? *A.* I did. I received another letter.

Q. The second letter which you received, was that delivered or mailed to

you? *A.* Now, "by first and second" meant nothing to me, because I received both by mail and by messenger letters. If you would show me I could tell you.

*Q.* Will you take a look at these papers and see if you received them after your advertisement, as you said, [*showing papers to witness?*]?

*A.* I received this letter by messenger at my front door.

*Q.* After the advertisement? *A.* After the advertisement in the paper.

*Q.* About what date? *A.* Well, as near as—I assume—it was the Saturday after; I knew that, it was the Saturday after I had placed the advertisement in a local paper besides the *American*, the *Bronx Home News*.

**MR WILENTZ:** We offer the note with the envelope in evidence.

[*Envelope and note referred to received in evidence and marked State Exhibits S-47 and S-48 respectively.*]

**MR WILENTZ:** May I read the note, sir?

**THE COURT:** Yes.

**MR WILENTZ:** The envelope has no postmarking on. Exhibit 47.

"*Mr John Condon, 2974 Decatur Avenue.*

"*MR CONDON.* We trust you but we will not [*n-o-t-e*] in your hous [*h-o-u-s*]. It is too danger. Even you can not [*n-o-t-e*] know if police or secret service is watching you. Follow this instruction. Take a car and drive to the last subway station from Jerome Avenue Line. A hundred feet from the last station on the left side is a empty frankfurter stand with a big open porch around. You will find a notice in senter [*s-e-n-t-e-r*] of the porch underneath the stone. This notice will tell you where to find me. Act accordingly. After three-quarters of a hour [*h-o-u-e-r*] be on the place, bring the money with you."

And the sign or symbol, as you see it there, with the holes.

*Q.* Did you follow the instructions in that letter? *A.* I did.

*Q.* About what time of the day or night did you start to follow—by the way, what time of the night was it when you received S-47?

*A.* Between half-past seven and eight o'clock.

*Q.* And how soon thereafter did you start? *A.* Fifteen minutes to a half an hour; as soon as we got ready.

*Q.* With whom? *A.* With Alfred J. Reich.

*Q.* Where had he been? *A.* At my home.

*Q.* Did he drive his car? *A.* He drove his car, following directions in the note.

*Q.* Tell us just what you did do, where you went. *A.* I got into the automobile with him, went up through Mosholu Parkway, which is just northwest of my home, went along the Jerome Avenue elevated and went to the last elevated pillar as instructed, followed out instructions implicitly until I came to the frankfurter stand, which was closed on account of it being cold and wintry.

Q. I show you a picture of some sort of building or shack and ask you whether you recognize that? [*Handing witness a photograph.*] A. I recognize that as the frankfurter stand on which platform I found the stone and a note.

Q. Is that a correct picture of the frankfurter stand as it was at that time? A. That was a correct picture at that time. It has since been removed.

Q. This picture having been taken recently, what I would like to know before I offer it again, is whether or not it truly depicts the frankfurter stand you refer to and the vicinity as it was the day or night you were there? A. It is an exact photograph of what I saw that night.

[*Photograph referred to was received in evidence and marked State Exhibit S-49.*]

Q. Well, when you got to the frankfurter stand, what did you do? A. I got out of the car, walked over into that little opening that you see in front of the frankfurter stand and saw a stone. Under that stone I noticed a paper sticking out.

Q. Did you pick up that paper? A. I lifted the stone and then picked up the paper.

Q. Will you take a look at this envelope, sir, and this other paper, and tell us whether or not those were the papers or paper? A. This is the envelope in which the note was enclosed. The note that I have also—Mr Doctor [*looking at envelope*]-yes, that is the envelope.

[*Envelope was received in evidence and marked State Exhibit S-50.*]

A. That was the note that was enclosed in the envelope under that stone that I picked up.

[*Note referred to was received in evidence and marked State Exhibit S-51.*]

Q. Now, having received this, referring to S-51, and the envelope, which is also in evidence, did you cross the street? A. Not yet.

Q. What did you do then? A. I took it under one of the arc lights and read that aloud and turned to Mr Reich, who was in the car, stating, "I do not see anybody here."

MR FISHER: Objected to, of course.

MR WILENTZ: If your honor please, this is a part of the transaction, because we will prove it was in response to that, if your honor please, that the defendant answered. It isn't a conversation out of the presence of the defendant, as I understand it. If it is, I will consent—

THE COURT: It doesn't appear to be a conversation in the presence of the defendant as yet, does it?

MR WILENTZ:

Q. Well, you said something to Mr Reich, is that it? A. I said something to Mr Reich.

Q. As a result of that, what happened? *A.* I went back to the automobile in which Mr Reich was seated at the wheel.

Q. Then you sat there about how long? *A.* Five minutes.

Q. After you sat there five minutes, what did you do, sir? *A.* Crossed the street in the automobile; I did not walk.

Q. You mean the automobile was turned around? *A.* The automobile had been turned around and facing south toward the elevated pillars in order that we might be in strict accordance with the traffic rules.

Q. Then you got out of the car again? *A.* No. I got in the car and stayed in the car and rode slowly.

Q. Then what did you do? *A.* We went across the street in the car and went slowly in a northerly direction along the cemetery fence. I refer this time to Woodlawn Cemetery, Woodlawn Cemetery fence.

Q. And after having gone slowly along this cemetery fence, did you stop somewhere? *A.* We reached nearly 233rd Street. There is an indentation or a sort of a geometric shape; I will put it that way.

Q. And, approaching 233rd Street, did you reach 233rd Street with your car before you stopped, or did you stop before you reached it? *A.* Stopped before we reached it.

Q. About how far away from the gates of Woodlawn Cemetery? *A.* It will only be a guess: sixty feet.

Q. Sixty feet. Your best judgment is sufficient. Now, when you reached there, this point sixty feet away from 233rd Street on Jerome Avenue, sixty feet away from the gates, I think, what did you do? *A.* I got out of the car with the letter that I had picked up at the frankfurter stand and went over to the middle of that space. It is like a little plaza or area in front of the gates, as you will see in the picture.

Q. You went into the middle of that little area in front of the gates? *A.* Yes sir.

Q. What did you do? *A.* I took the letter out.

Q. Having read it, what happened, if anything? *A.* Nothing for a while, except that one man from 233rd Street walked down in the direction of the automobile between me and the automobile. Mr Reich was in the automobile and I saw this man come down there, but I didn't pay any attention of any account to him.

Q. Then what happened? *A.* I said—

Q. You said something? *A.* I did.

Q. As a result of what you said, what happened next? *A.* I saw a handkerchief inside from someone inside the gate being waved.

Q. You saw a handkerchief being waved? *A.* Yes sir.

Q. Where was the man who was holding that handkerchief and waving it; was he inside the gate or on your side? *A.* The man was inside the cemetery gate.

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Q. Where were you then? A. Right in the center of the plaza.

Q. What happened then, when you saw that handkerchief waved? A. A man put his arm through the bars, which are wide enough to admit a man's arm.

Q. This hand, as I understand you to say, was through the bars and waving the handkerchief? A. Yes sir.

Q. What did you do then? A. I walked over there and said, "I see you."

MR REILLY: I object.

MR WILENTZ: We will connect it with this defendant now, if your honor please, and we maintain it was in this defendant's presence.

THE WITNESS: Yes.

MR REILLY: Until you connect it—

MR WILENTZ: We are connecting it now.

THE COURT: You may proceed, Mr Attorney General.

MR WILENTZ:

Q. As a result of what you said, what then happened? Did you walk up?

A. I walked to the gate on the outside. The man was standing about three feet away on the inside.

Q. And what happened then? A. May I say what he said to me?

Q. Certainly.

MR REILLY: And I object to it.

MR FISHER: First identify him.

MR WILENTZ:

Q. Who is the man as you found out later? A. What was his name?

MR REILLY: No. Who was the man then, not what he found out later.

MR WILENTZ:

Q. Who was the man you spoke to then between the gates? A. John, as given to me by himself.

Q. And who is John? A. John is Bruno Richard Hauptmann.

Q. Now, what did Mr Hauptmann say to you there, three feet away from you and with the gates between you? A. He said: "Did you got it the money?"

Q. And what did you say, sir? A. I said, "No, I couldn't bring the money until I saw the package."

Q. What then happened? A. About a minute or so I heard a rustle in the leaves. There is a little bit of a parkway on the inside of that gate, and I heard a rustle in that direction and evidently—

Q. Not evidently. What happened then? A. He heard and said, "There is a cop." He caught ahold of the bars and climbed, what I call "Turner" fashion.

Q. He climbed the bars? A. He did.

Q. And then what happened? A. Up to the top of that fence and then jumped in front of me.

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Q. About how many feet high was that fence that he climbed? Give us your best judgment. *A.* Nine feet.

Q. So that he climbed the rungs, or whatever it is, and then jumped down? *A.* No rungs; they were vertical bars, either iron or steel, I should judge. And he climbed up there—

Q. And jumped down? *A.* Jumped down in front of me.

Q. Then what happened? *A.* He said, "Did you sended the cops?" I said, "No, I gave you my word that I wouldn't do that, and I kept my word." He then said, "It is too dangerous," and started to run in a northerly direction. He reached 233rd Street, because we had a part of that plaza in front of the gate to go; he reached 233rd Street and kept on running, and I said, "Hey, come back here. Don't be cowardly. Here I am, a poor schoolteacher, up here in the cemetery and you leaving me here to be drilled."

Q. Then what happened? *A.* He kept on running.

Q. What did you do? *A.* I followed him.

Q. How far did you follow him? *A.* I followed him into a little clump of trees near a shack on the opposite side of the way from the cemetery, and I went over and got ahold of his arm and said, "Hey, you mustn't do anything like that; you are my guest."

Q. Then what did you do? *A.* I led him back to the seat by the small shack.

Q. I show you a picture of a building or shack on S-41 and ask you whether that refreshes your memory as to whether or not that is the shack that you refer to now. *A.* That is the shack as it was then.

Q. I see there is a bench there. *Q.* The bench was there, and I led him—I led him back to that bench and asked him to be seated, as my guest.

Q. Did he accept your invitation? *A.* He accepted the invitation. I put him on my right and sat down with him.

Q. And what happened then—did you talk there? *A.* I talked to him then for more than one hour.

Q. Tell us as best you can remember what you said to him and what he said to you. *A.* I first reprimanded him for going across there again. I said, "Don't ever do that again. I am square with you, and the truth to a kidnaper is the same as the truth to a—" He said to me, "It is too dangerous. Might be twenty years or burn. Would I burn if the baby is dead?" "Not if you did not have some part in it." He answered, "I am only go-between."

Q. Now then, what else was said there? *A.* In order to find out whether he was the proper party or not, I said, "How am I to know that I am talking to the right man?" He said, "The baby was held in the crib by safety pins."

Q. Who said that—John? *A.* John.

Q. And what, did you have the pins with you? *A.* I had the pins with me, because I took them out of the baby's crib on the night that I slept there.

Q. Did you take them out with the consent and knowledge of Colonel Lindbergh? *A.* I took them out first and asked him afterwards—what they call French leave.

Q. What else was talked about then? *A.* I asked him how he happened to get into such a scrape as that, a man like he was. I praised him and I meant it. "A man like you. What would your mother say if she knew that you were engaged like this?" And he said, "My mother wouldn't like it; she would cry." Just like that, as nearly as I can imitate it. I am not a good mimic.

Q. What else? *A.* Then I said, "Leave that, leave that stuff. Come with me." I then used the words, "I have a thousand dollars of my own available." I didn't say that was all I was worth. I said, "I have a thousand available"—that is all I had at that time—"and you can have it." He said, "We don't want your money." I said, "Well, leave them, and I will give you that and I will go over to Jersey and collect the rest for you if it is within my power. There are a number of lawyers in my family and if it is within the law, I will get him to go with you to the last degree, but if you fail me, I would follow you to Australia." I suppose I was a little vehement in the matter, but that is what I said to him. He said, "We won't. You will get that baby and put it in its mother's arms." That was what I was out for.

Q. Then what happened? *A.* Then I said, "Leave them and come." He said, "No." I said, "Why?" He said, "The leader would smack me up." I said, "Excuse me, are you a German?" *A.* He said, "No, Scandinavian." I said, "Well, leave them. You will be caught." He said, "Oh no. We were prepared a year before we were prepared to do this."

Q. Then what was said? *A.* Then we talked about himself. He had his coat up this way [*indicating, drawing the lapels of his coat up to his face*].

Q. The lapels of the coat drawn up to his chin? *A.* Drawn up over his mouth. I said, "You have nothing to be afraid of. I have been square all my life and I am square now. You have nothing to fear from me. Take down that coat. Your fabric is too thin. I have got two coats; I will give you one if you are in want." And then he coughed. I don't want to imitate that.

Q. It was a cough? *A.* He coughed. I said, "The inroads of pulmonary disease seem to start. Let me go over and get you some medicine. I will do anything I can to straighten this matter out, anything. I will go as hostage to the man."

Q. You said, you will go as hostage? *A.* "I will go as hostage to the

man that has the baby. Let me go." He says, "Hostage? Oh." I said, "What I mean, I will go and stay there until you get the money and won't say—let me with the baby. I have three toys belonging to the baby and there are three words I know the baby knows," because on the night that Colonel Lindbergh gave me the authorization to go on with this work I felt confident—

MR REILLY: I object to this. Is this a conversation?

MR WILENTZ: No.

MR REILLY: This is an observation?

MR WILENTZ: It is a slight—

MR REILLY: Deviation.

THE WITNESS: It is a deviation, yes sir.

MR REILLY: May we have it excluded?

THE COURT: Will you tell what happened between you and Hauptmann?

MR WILENTZ:

Q. Where did you get the toys you said you had there that night? *A.* I got the toys from Colonel Lindbergh, at my request.

Q. And they were Baby Lindbergh's toys? *A.* They were Baby Lindbergh's toys.

Q. What did you say to Hauptmann about the toys, if you said anything? *A.* I said if he would take me to where the baby was I would know if it was the real baby. "Please give me a chance. I promised Mr Lindbergh, Colonel Lindbergh, and Mrs Lindbergh, to help them get their baby. That is what I am out for, nobody else."

Q. What did he say? *A.* "Nobody else shall ever get the baby but you, and you can put that baby's arms around Mrs Lindbergh's neck"; and I believed it.

Q. Who said that to you? *A.* John.

Q. Now then, what happened, what else did you say, if you remember? *A.* "How on earth could I get you if you wouldn't take me to where the baby is?" Again he said, "They would smack me down. The leader wouldn't stand for it. How could I tell you now? There is a point here, and on that point I will stand and signal to them. There is a boat. They will see my signal and Colonel Lindbergh can get his plane and go right up there." I said, "Why not walk?" He said, "You couldn't walk there."

Q. This is a conversation between you and John? *A.* This is a conversation between John and myself on that bench.

Q. What finally happened? Did you get to see the child? *A.* I did not get to see the child; he said they wouldn't even propose it, that they would drill him. I said, "Well, you mustn't be afraid of anything like that. Do what you think is right, while you have got time, for your mother's sake."

Q. Then what was said about whether or not they were the right parties? *A.* He said, "Maybe you think we are not the ride"—the "d" was

accented on that more than his "t" in righteousness and right and so on. He said, "We are the ride parties. I will send you the slipping suit of the baby. Tell Colonel Lindbergh and Mrs Lindbergh not to worry, that the baby is all right." I said, "Then you will send to me the baby's sleeping suit." He said, "Yes. I vaited too long already."

Q. Who said that? *A.* John.

Q. And then what? *A.* I said, "Well, it is so important, what are you going to do?" He said, "I will send you the sleeping suit. I must go." That had been after we talked this way for one hour and—well, ten minutes, fifteen minutes, as nearly as I can remember, and we shook hands and parted. I did not go to catch him. I wanted the baby. I didn't care about catching him.

Q. Well, at any rate, he left you then? *A.* He did.

Q. You returned to your home, did you, with Mr Reich? *A.* With Mr Reich in his automobile.

Q. Finally, after being home, how many days later did you get another communication, to your best judgment? *A.* About the following Wednesday from that Saturday.

Q. To the following Wednesday? *A.* It was, I know it was until the week, about that, yes.

Q. Now, will you take a look at this paper and see if that is a letter or note which came? *A.* Yes sir.

Q. In an envelope, as the next communication? *A.* Yes sir. [*Witness examines note carefully.*] That is the letter I received.  
[*State Exhibit S-31 for identification is now received in evidence and marked State Exhibit S-52 in evidence.*]

Q. What was contained in the envelope together with this note and letter, S-52? *A.* I do not know the letters by name.

Q. The last one that you just had, in the brown envelope, what came with it? It was a package, wasn't it? *A.* The baby's sleeping suit, with two letters.  
[*Envelope referred to, received in evidence and marked Exhibit S-53.*]

Q. A baby's sleeping suit, is that it [*showing to witness*]? *A.* Yes sir.

Q. Who was there when it arrived? *A.* That I couldn't say; I don't know.

Q. Do you remember whether Colonel Breckinridge was there? *A.* Colonel Breckinridge was one at the house, but I do not know the other people.

Q. Who opened the envelope marked in evidence as S-53 and took from it the sleeping suit? *A.* That came by mail; I opened it in my parlor.

Q. Who was present when you opened it? *A.* Colonel Lindbergh.

Q. Anybody else? *A.* Colonel Breckinridge. Those are all that I can remember.

MR WILENTZ: Now, may I read the letter, which is in evidence, which we haven't read yet? It is the only one we have omitted so far. It is S-52.

"DEAR SIR: Our man [*o-u-e-r*] failed to collect the money [*m-o-n-y*]. There are no more conferences after the meeting from March 12th. Those arrangements too hazardous for us. We will not [*n-o-t-e*] allow our [*o-u-e-r*] man to confer that way like before.

"Circumstances will not [*n-o-t-e*] allow us to make a transfer like you wish. It is impossibly for us. Why should we move the baby and face danger to take another person to the place is entirely out of question. It seems you are afraid if we are the right [*r-i-g-h-t-s*] party and if the boy is all right. Well you have our singnature [*s-i-n-g-n-a-t-u-r-e*] it is always the same as the first one, specially the three holes. [*The other side.*] Now we will send you the sleeping suit from the baby, besides it means three dollars extra expenses [*extra, e-x-t-r-e*], because we have to pay another one. Please tell Mrs Lindbergh not [*n-o-t-e*] to worry, the baby is well. We only have to give him more food as the diet says. You are willing to pay the 70,000\$ not [*n-o-t-e*] 50,000\$ without seeing the baby first or not [*n-o-t-e*]. Let us know about that in the New York *American*. We can't do it otherwise because we don't like to give up our [*o-u-e-r*] safety place [*s-a-f-t-y*] place [*p-l-a-s-e*], or to move the baby. If you are willing to accept this deal then put in the paper, 'I accept. Money is ready.' [*Underlined.*] Our program is after eight hours we have the money received we will notify you where to find the baby. If there is any trap you will be responsible what will follow."

Q. Now, that note talks about the meeting you had on March twelfth. Does that refresh your recollection as to the date? *A.* Yes sir.

Q. Was it on March twelfth that you met John in Woodlawn Cemetery? *A.* It was March twelfth that I met John in Woodlawn Cemetery.

Q. After you received the note, just referred to as S-53 in that envelope, the brown envelope with the sleeping suit? *A.* Yes.

Q. Did you, after talking to Colonel Lindbergh and Colonel Breckinridge, did you cause an ad to be inserted as directed by that note? *A.* May I ask to have an explanation there?

Q. Yes. *A.* I immediately, upon getting that suit, brought Colonel Lindbergh into my parlor and, spreading the suit on the piano, I asked him to direct me and see if I was making any mistake. Then, in response to that I carried out the orders given in the letter, having handed him the sleeping suit.

Q. Did you then in pursuance of the orders you talk about, cause an ad to be inserted in the New York *American* on or about March

twentieth? *A.* If you would give me any of the content or let me see it, I could tell you.

*Q.* Will you take a look at this paper and see if that is— *A.* [After examining papers.] After a conference with Colonel Breckinridge I caused that content to be placed in a paper in New York City.

[*Portion of paper referred to received in evidence and marked State Exhibit S-54.*]

*Q.* Now S-54, as I understand it, says: "I accept. Money is ready. You know they won't let me deliver without getting the package. Let's make it some sort of C.O.D. transaction. Come. You know you can trust Jafsie." *A.* Right.

*Q.* That is the ad? *A.* That is right.

*Q.* Now, following that, did you then receive another letter or note? *A.* I did.

*Q.* Being S-32 for identification and S-33 for identification; and tell me whether or not this followed in the next order? *A.* [After examining papers.] Yes sir, that is a letter which I received by mail at my home.

*Q.* After you received the sleeping suit? *A.* After I received the sleeping suit and after the advertisement was placed in the paper.

[*Envelope and note referred to received in evidence and marked State Exhibits S-55 and S-56.*]

MR WILENTZ: On envelope S-55 is an envelope as you can see, post-marked New York, N. Y., March 19, 7:30 P.M. to Mr John Condon and so forth. And S-56 reads as follows:

"DEAR SIR: You and Mr Lindbergh know our program [*our, o-u-e-r*]. If you don't accept, den [*d-e-n*] we will wait until you agree with our deal. We know you have to come to us anyway, but why should Mr and Mrs Lindbergh suffer longer as necessary. We will not [*n-o-t-e*] communicate with you or Mr Lindbergh until you will—so in the paper—until you will write in the paper, write so in the paper. We will tell you again. This kidnapping case was [*w-h-a-s*] prepared for a year already. So the police won't have any luck [*l-o-o-k*] to find us or the child. You only push everyding furder out. Did you send that little package to Mr Lindbergh? It contains the sleeping suit from the baby. The baby is well."

On the opposite side of S-56,

"Mr Lindbergh only wasting time with his search."

*Q.* Following that, did you cause to have through Colonel Breckinridge inserted in the New York *American* this advertisement on or about the twenty-second of March? *A.* Yes sir.

[*The above advertisement was received in evidence and marked Exhibit S-57.*]

Q. Following in order, will you tell us whether somewhere around the first of April, or at the end of March, rather, you received this envelope, which is now marked S-34 for identification, together with a note, the envelope being postdated March the twenty-ninth, New York? *A.* Those stains were not on it, but I received that envelope.

[*Envelope referred to was received in evidence and marked Exhibit S-60.*]

Q. I show you S-75 for identification and ask you whether or not you received this note in that envelope? [*Handing to witness.*] *A.* [After lengthy examination.] This staining on the back of the letter was not there, but that is the letter I received.

[*Note marked State Exhibit S-61.*]

MR WILENTZ: [*Reading to the jury.*] S-61, just admitted in evidence.

"DEAR SIR: It is not [*n-o-t-e*] necessary to furnish any code. You and Mr Lindbergh know our program [*o-u-e-r*]. Very well. We will keep the child on our [*o-u-e-r*] safe place [*s-a-v-e*] until we have the money in hand, but if the deal is not [*n-o-t-e*] closed until the 8th of April, we will ask for 30,000 more, and not [*n-o-t-e*] 70,000, a hundred thousand. How can Mr Lindbergh follow so many false clues? He knows we are the right party over singnature. Our signniture is still the same as on the ransom note, but if Mr Lindbergh likes to fool around for another month, we can't help it. Once he has to come to us anyway, but if he keeps on waiting, we will double our amount [*o-u-e-r*]. There is absolute no fear about the child. It is well."

Q. Now, having received that note, did you then receive another note? *A.* I did.

Q. Will you take a look at this, dated April first, and tell us whether that envelope, together with this note, was received by you sometime around the first of April? *A.* [*The witness examines the papers at length.*] Yes sir, I received that letter and envelope.

[*The envelope and letter of April first are received and marked in evidence, State Exhibits S-64 and S-65.*]

MR WILENTZ: Envelope postdated or dated April first. From Fordham Station, New York, 9:30 A.M., the letter reading as follows:

"DEAR SIR: Have the money ready by Saturday evening. We will inform you where and how to deliver it. Have the money in one bundle. We want you to put it in on a certain place. There is no fear that somebody else will take it. We watch everything closely. Please let us know if you are agreed and ready for action by Saturdsy evening. If yes, put in the paper, 'Yes, everything O.K.' It is very simple [*s-i-m-b-l-e*] delivery

but we find out very soon if there is any trap. After eight hours you get the adr. from the boy. You find two ladies. They are innocence. If it is too late to put it in the New York *American* for Saturday morning, put it in the New York *Journal*."

Q. Did you cause that ad to be inserted, "I accept. Money is ready," on the Saturday in question, April second? *A.* I did.

Q. Now, that Saturday, April 2, 1932, with reference to when the money was brought to your house, what have you to say as to that date? *A.* I had nothing to do with that, sir.

Q. But what day was the money brought to your house? *A.* On April second, in the afternoon.

Q. That was the same day that ad appeared in the paper, about the money being ready? *A.* Yes sir.

Q. Sometime during that day, on Saturday, did you receive a note which was delivered to your home, and if you did, is this the note [*showing the witness Exhibit S-38 for identification, the envelope not being marked*]? *A.* This was delivered by some person at my home, not through the mail.

Q. On what day of the week and month and year was that note delivered? *A.* It was on Saturday, April 2, 1932.  
[*Note was received in evidence and marked State Exhibit S-66. Envelope was marked State Exhibit S-67.*]

Q. The note just referred to, S-66, was delivered to your home? *A.* Yes sir.

Q. Now, this is the last note at your home on April second? *A.* April second.

Q. Do you know who delivered it? *A.* Messenger.

MR WILENTZ: [*Reading note to jury.*]

"DEAR SIR: Take a car and follow Tremont Avenue to the east until you reach the number 3225 East Tremont Avenue. It is a nursery, Bergen Greenhouses, Florists. There is a table standing outside, right under the door, you find a letter. Underneath [*u-n-d-e-r-n-e-a-d*] you will find a letter underneath the table covered with a stone. Read and follow instructions."

Then the three holes and the circles and the red dot.

"Don't speak to anyone on the way. If there is a radio alarm for police car, we warn you we have the same equipment. Have the money in one bundle. We give you three-quarters of an hour to reach the place."

Q. Now, having received that note, as I recall it, Colonel Lindbergh, Colonel Breckinridge and Al Reich and your family were there? *A.* Yes sir.

Q. Did you then follow those instructions and leave? *A.* Yes sir.

Q. Within how many minutes after the note was delivered? *A.* Within about a half an hour. It took us a little time to prepare, but within half an hour we started.

Q. You and the colonel left, as you testified before? *A.* Colonel Lindbergh took the wheel of Al Reich's coupe and I went in with the colonel.

Q. And where did you go then? *A.* The colonel took the box of money and we went across—it is called Pelham Driveway there—to Westchester Square. There is then a square which compels us to take the southerly route because you cannot go through a one-way place there. And, going around the southerly way, we took an easterly direction—I am familiar with all those places—and we came to Bergen's Flower Store. There was a table out in front of the store. The place was closed up, and under that table was a stone, and under the stone a note, which I picked up.

Q. Will you take a look and see if this is the note you picked up from under that stone in front of the Bergen greenhouse? *A.* That is the note that I received.

Q. Was it in an envelope? *A.* It was.

*[Note referred to was received in evidence and marked Exhibit S-68 and the envelope S-69.]*

MR WILENTZ: I suggest, if your honor please, that I just read this short note.

"Cross the street and walk to the next corner and follow Whittemore Avenue to the south. Take the money with you. Come alone and walk. I will meet you."

Circles, red dot, three holes.

Q. Now, what did you do when you got to Bergen's greenhouse? *A.* I went over to the table as directed in the note specified and picked up a stone, took a note from under it and read it. I then went over to the automobile where Colonel Lindbergh was seated.

Q. Where was that with reference to the greenhouse? *A.* The greenhouse, I would say, is almost easterly from that, rough guess, a hundred feet. That would make Colonel Lindbergh west of the greenhouse about a hundred feet.

Q. Now, the greenhouse with reference to the cemetery: is it on the same side of the street or on the opposite side? *A.* It is on the opposite side of the street. It is on the northerly side of Tremont Avenue.

Q. How close to the intersection of Whittemore Avenue and Tremont Avenue is the greenhouse? *A.* Forty feet, rough guess.

Q. Now, you say you went from the greenhouse to Colonel Lindbergh's car? *A.* To the car.

Q. Did you talk to the colonel there? *A.* Yes sir.

Q. Exhibit the note to him? *A.* Showed him the note.

Q. Then what happened? *A.* I walked across the street, following the

directions in the note. When I got across the other side I went almost nearly at right angles in an easterly direction. On that corner there was a man and a little girl. The little girl seemed to be about twelve years of age and I said, "Could you tell me where Whittemore Avenue is?"

Q. What was the answer? *A.* The answer was, "No, we are strangers here."

Q. Then what did you do? *A.* I looked up at the avenue sign and saw "Whittemore Avenue." Then I walked along East Tremont Avenue on the southerly side.

Q. Is that the cemetery side? *A.* Cemetery side, southerly side of Tremont Avenue, and went along in an easterly direction past the entrance and gate of the cemetery.

Q. What happened then? *A.* I went maybe a hundred yards east of that gate. I saw no one and came back again to the meeting of Whittemore Avenue and Tremont Avenue, stood there and said, "There does not seem to be anybody here."

Q. And then what happened? *A.* I went to turn away; maybe about ten feet, fifteen feet, and someone said in a very loud, clear tone, "Hey, Doctor, over here."

Q. Then what did you do? *A.* I walked toward that voice. It came from the mound of St Raymond's Cemetery, about ten feet above the level where I was standing. I followed the voice and it repeated again in a lower tone, but I could hear it. It was a still night. I heard it plainly: "Over here." I said "All right." And I followed down that street. From the light going down that street, it was exceedingly dark, and I walked exceedingly cautiously.

Q. It was downgrade there, wasn't it? *A.* It was downgrade, and getting darker each time that I walked.

Q. That is down Whittemore Avenue, isn't it, Doctor? *A.* Well, I call it down. In a southerly direction; the note stated to go down toward the sout—I took it as meaning "Sound."

Q. How far did you go down Whittemore Avenue until you reached a little intersection or a pathway leading from the cemetery into Whittemore Avenue? *A.* Well, from Whittemore Avenue it leads in an easterly direction toward the Sound itself.

Q. How far was it from the corner of Tremont Avenue and Whittemore Avenue before you reached that little intersection, that little path from the cemetery into Whittemore? *A.* Around four city lots, 25 by 100.

Q. And then it was that you met an intersecting or a connecting little lane from the cemetery? *A.* Entrance, yes sir.

Q. Now beyond that little lane, and further south, what is there on the same side of the street? *A.* On the same side of the street there was (there is not now) a hedge fence about five feet tall. It was sparsely grown or sprouting, because it was the month of April.

Q. Is that a continuation of the cemetery? *A.* Yes sir.

Q. And this hedge that you speak of, does that begin at that little lane we talked about, which separates the first section and the other section of the cemetery? *A.* It begins on the southerly side of that right at the corner where the lane or entrance to the cemetery reaches Whittemore Avenue. That is, on the south side of the entrance to the cemetery, where the hedge starts or started.

Q. How wide was it? *A.* About, I should judge, two rods, rough guess, thirty-three feet.

Q. The street; you mean Whittemore Avenue? *A.* Whittemore Avenue; no more than thirty-three feet in my opinion.

Q. You were walking along the center, you say? *A.* Right in the middle. I always do.

Q. How far down did you go? *A.* I went down ten feet beyond the intersection, and there again a person back of the hedge said, "Here, Doctor."

Q. What did you do? *A.* May I interject something here? It is important. There was no wall there.

Q. There was a hedge there then? *A.* There was a hedge there then.

Q. Since that time you know the hedge has been taken away, is that it? *A.* Yes.

Q. Well, you finally got to a point near the hedge, did you not? *A.* I did.

Q. When you got there what did you do and what happened? *A.* When I got there I heard the same voice.

Q. And then what? *A.* Then I said, "All right."

Q. Then what happened? *A.* He says, "Have you got it, the money?" The same as he said on the night that I met him at Woodlawn Cemetery gate.

Q. What did you say when he asked you whether you got it, the money? *A.* I said, "No, I didn't bring any money."

Q. And then what? *A.* I said, "It is up in the car." He said, "Who is up there?"

Q. Who asked who was up there, the defendant? *A.* John asked me me who was up there.

Q. And what did you say then? *A.* I said, "Colonel Lindbergh." He said, "Is he armed?" And I said, "I don't know."

Q. Then what did you say, sir? *A.* I said, "No, he is not."

Q. Then what? *A.* Then he said, "Give me the money." I said, "Not till you give me a receipt showing me where the baby is."

Q. Now with reference to the amount of money. Did you discuss that there? *A.* At that place—I did.

Q. What was it? *A.* I said to him, "You want that money. Colonel Lindbergh is not so rich. These are times of depression. Why don't you be decent to him?" And he said, "Well, I suppose if we can't get seventy, we take fifty."

Q. Then what happened? *A.* And I said, "That will go, but tell me where is the note?" He said, "In ten minutes I come back with the note and give you the note." I said, "I will go up and get the money."

Q. Did you then return to Colonel Lindbergh? *A.* I returned up Whittemore Avenue in a northerly direction, went over to Colonel Lindbergh, to the car in which he was seated, and said—

MR REILLY: I object.

Q. Whatever it was, as the result of what you said to him, did he give you a money box? *A.* Not yet.

Q. What did he do? *A.* He took what I thought was \$20,000 from the top of the box. It could not fit in. He took \$20,000 from the top of the box and placed it one side in the car.

Q. What did he do with the rest? *A.* He shut the lid of the box and handed it out the window to me.

Q. Did he take that out at your suggestion, the twenty thousand? *A.* My answer to that is no, but I made the statement that John said—

MR REILLY: I object.

Q. Well, as a result of what you told him he took out twenty thousand, is that it? *A.* Yes.

Q. And then you took the rest? *A.* Yes.

Q. How much was in the rest? *A.* Fifty thousand dollars.

Q. And you took that back with you down Whittemore Avenue? *A.* Back down Whittemore Avenue in a southerly direction until I came to the same spot, about ten feet south of the junction of Whittemore Avenue and the cemetery entrance.

Q. And what happened then? *A.* He was crouching down under the hedge, and I said, "Come on, stand up like a man. I have the money here." I took the money and placed it on my forearm.

Q. You mean the box? *A.* Yes sir, the box full of money. And then I said, "Give me the note." He put his hand down his coat pocket and said, "I got the note."

Q. Did he give you the note? *A.* Not yet. He said, "Don't open it yet." I said, "I have never betrayed a confidence. I have carried out every order of both parties the best I could. I won't open it. I will take it up to Colonel Lindbergh." I then handed the money out with my left hand forward, and I could look down at him; he was crouched near the hedge. I said, "Stand up and look at me if you want to do that, and give me the note." He gave me the note and I handed him the box; the box therefore went on his right hand, and I took the note from his left hand and put it in my pocket.

Q. Then what happened? *A.* Then he says, "Vait a minute"—with that "V"—"Vait a minute." I said, "All right." He got down there

under the hedge, put his hand in the center of the pack and picked out the money and said, "I want to see if it is all right."

Q. Then, as I understand it, with your left hand and arm you held this money box and he gave you the note with the other? A. I gave him the money box in his right hand. He took the note out with his left hand from his pocket and handed it to me. I put that in my pocket and was about to turn away and he said, "Well, all of them said your work was perfect." I said, "I know no other way." Now he seemed pleased and reached his right hand then, having taken the package out of the box, and putting it in his pocket. He said, "I wanted to see if these bills are marked." I said, "If these bills are marked or serial, I know nothing about it, John. I had nothing to do with it and didn't see them." He said, "The crowd thinks you're find." I don't know what he meant.

Q. He said that to you? A. He said that to me. I said, "Well, if you give me a chance to get that baby, it will be all right, but if you don't, I will follow you to Australia."

Q. Now, did he shake hands with you that night? A. He reached his hand over the hedge and said, "Your work was perfect. Good night." I said, "Good night, John. Remember, don't try to double-cross me."

Q. And the man that you handed that money to was John, you say? A. John.

Q. That is the man you are talking about in this conversation? A. That is the man I am talking about on that night.

Q. And John is who? A. John is Bruno Richard Hauptmann.

Q. Now, when you got the paper there that night—I show you a piece of paper marked S-40 for identification and ask you whether you recognize the paper you received on the night of April 2, 1932, in St Raymond's Cemetery? A. That is the note that he handed to me over the hedge.

*[Note received in evidence and marked Exhibit S-70.]*

Q. Having received that note, did you then return to Colonel Lindbergh? A. I returned to the car in which Colonel Lindbergh was seated. That note was enclosed; I didn't see the enclosure for it, but that note was originally enclosed.

Q. In an envelope, you mean? A. Yes sir, because he told me not to open it for six hours—maybe eight hours. I said, "I have never betrayed a confidence. I will hand it to Colonel Lindbergh."

Q. And then what happened? A. Colonel Lindbergh would not open the envelope. I said, "Colonel, your baby—"

Q. Well, at any rate, you returned anyway, didn't you, to your home? A. No.

Q. Was the envelope finally opened? A. It was.

Q. Who opened it? A. Colonel Lindbergh.

Q. Where was it when he opened it? A. On the southerly side of

Westchester Square, on a little house stoop—that I own—on the southeasterly side of Westchester Square, about a mile from where we got it.

Q. And then what did you do from there? A. Well, we started with the note opened; we both read it and went over to my house with that note, went inside and discussed that matter with those who were in there.

Q. Who was in there? A. Colonel Breckinridge, Alfred J. Reich; that is all I remember, because they were interested most.

Q. And then what happened? A. They held a little council, the two colonels, and said we would go down to some place in the lower part of the city of New York.

Q. Well, as the result of their conference about the note, did you and others leave the house and about what time of the night? A. We did, around midnight, as near as I can remember.

MR WILENTZ: May I read the note found at the cemetery?

THE COURT: Well, has it been admitted in evidence yet?

MR WILENTZ: Yes, if your honor please; it is S-70.

"The boy is on the boat [b-o-a-d] Nelly. It is a small boat [b-o-a-d] 28 feet long. Two persons are on the boat. The [t-h-e] are innocent. You will find the boat between Horseneck Beach and Gay Head near Elizabeth Island."

Q. When you left at midnight, who left in the party? A. Colonel Lindbergh, Colonel Breckinridge, Alfred Reich and then some man belonging to the United States, I think, I didn't know him. I didn't know him, Mr Attorney General.

Q. Was it Mr Irey of the United States Department of Internal Revenue? A. Either one of two, I wouldn't be sure, either Mr Irey or Mr Frank Wilson, either one of those two.

Q. Did you leave in an automobile? A. Yes sir.

Q. And where did you go? A. Down to around Seventy—the street near Central Park West; I couldn't tell you the number of the house now.

Q. Then where did you go? A. We stayed there and had a consultation.

Q. Whose house was it? A. Oh, it was the late Senator Morrow's. I don't know the number.

Q. In New York? A. Yes sir.

Q. From Senator Morrow's home where did you go? A. We went in an automobile to Bridgeport, Connecticut.

Q. Who drove the car? A. Colonel Lindbergh.

Q. Traveling through the night? A. Yes sir.

Q. About what time would you say you arrived at Bridgeport? A. Around five o'clock in the morning or a little earlier; it was very dark.

Q. Having arrived there at five o'clock in the morning, the four of you men, what did you do? *A.* The men who were with me advised waiting a little while, inasmuch as it would not be practicable to go farther east at that time until light would assist them.

Q. And did you wait then? *A.* I did.

Q. What time finally did you leave Bridgeport? *A.* I'd say when it was light, when it was light.

Q. And what did you do then? *A.* Went in an airplane from Bridgeport to within the vicinity of Gay Head.

Q. Who piloted the airplane? *A.* Colonel Charles A. Lindbergh.

Q. Colonel Lindbergh piloted it, and who were the passengers besides the colonel? *A.* Colonel Breckinridge, this gentleman from the United States Service Department and myself.

Q. And how long were you in the air? *A.* I did not take time to know, but we stopped at Gay Head or very near it up there. It was then light.

Q. Did you return that day to your home? *A.* No sir.

Q. Did you stay with Colonel Lindbergh? *A.* Yes sir.

Q. Until when? *A.* Until he had finished the flight. I was in the airplane with him.

Q. Did you accompany him on both flights that he made or only on one? *A.* I did.

Q. Did the colonel find his baby? *A.* He did not.

Q. Now, remembering that April the second, Saturday night, 1932, was the date and the time of this meeting at St Raymond's Cemetery, then, having gone on these airplane trips, and having returned, what next did you do with reference to communicating with John? *A.* I felt hurt, naturally, and I wrote a note through the press. Whether it was broadcast or not I do not know, but I wrote the following statement: "John, what is the trouble?" or "What is the matter?" or something like that. "Have you double-crossed me? Jafsie." That is in content what I wrote.

Q. Did you get any response to that? *A.* I received no response to it.

Q. Is this the advertisement? *A.* [Witness examines note.] Yes sir. I am the author of that advertisement.

[Advertisement referred to received in evidence and marked Exhibit S-71.]

MR WILENTZ: The ad reads:

"What is wrong? Have you crossed me? Please better directions.  
JAFSIE."

Q. That note continued for several days at your direction, did it not? *A.* Yes sir.

Q. Now, following your meeting with John in Woodlawn Cemetery and then following your meeting with him at St Raymond's Ceme-

tery, did you see him again, and if so, when? *A.* Yes sir, I saw him about the latter part of October in Centre Street Police Headquarters.

*Q.* That was in 1934? *A.* That was in 1934, yes sir.

*Q.* Did you see him again in the jail here at Flemington? *A.* Yes.

The witness then said that "one evening at the corner of Williamsburg Bridge Road and Pelham Parkway" he saw the defendant walking in the direction of what afterwards proved to be his home. The witness was on a bus at the time, going in the opposite direction, and did not pursue him. This occurrence was in August 1934.

*Q.* Now, in all these talks, whenever you refer to "John", as I understand it, you are referring to the defendant Hauptmann? *A.* Yes sir.

*Q.* Where do you get the name "John"? *A.* On the night that I asked him what his nationality was, where he came from, I said, "Please tell me your name. You know mine all right; tell me your name." He said, "Call me John."

*Q.* When the last note was received at your home, April 2, 1932, and you went to the door, do you remember who accompanied you to the door? *A.* Yes sir; Milton Gaglio.

*Q.* Anybody else? *A.* He is the only one that I remember.

*Q.* When the note came was your daughter there? *A.* Yes sir.

*Q.* Do you remember whether she accompanied you to the door? *A.* I couldn't. If she accompanied me she was behind me; I didn't see her.

*Q.* After you had dealt with John, and of course, the child hadn't been returned, and eventually the body was found, I take it, you were questioned by police? *A.* Yes sir.

*Q.* And did you give a description of the John? *A.* Yes sir.

*Q.* Tell me, please, give me the description of John as you saw him at Woodlawn Cemetery and St Raymond's Cemetery, about his size and everything else. *A.* He was about five feet nine and a half, what we term in boxing circles a "middleweight", that is, or a little heavier than a middleweight. Middleweight is from a hundred and fifty-eight to one hundred and sixty-five. Five feet ten and a half, very well built and exceedingly active and athletic, were my description.

*Q.* I think you said five nine and a half, and then you said five ten, or something like that. *A.* Well, I had a little doubt as to whether it was five nine, five nine and a half, or five ten—I did not measure him, except by eye.

*Q.* Now, from his appearance, what did you have to say then, and what was his complexion? *A.* I would say that his complexion would be what I would call light, that his hair was of a muddy blond.

*Q.* When you talked about his being muscular or otherwise, how did you

arrive at that observation? *A.* I have trained about ten thousand athletes in my life, and they couldn't deceive me upon those inner muscles.

*Q.* You felt his muscles, is that it? *A.* I did.

*Q.* Where? *A.* I felt his muscles on that bench when I said, "Your coat is rather of light fabric. I have two coats; let me give you one." But I was studying him.

*Q.* And that description that you have just given, five foot nine or five foot nine and a half— *A.* Five foot nine or five foot nine and a half.

*Q.* Was your observation that he was of Scandinavian origin or what? *A.* No, I didn't draw that deduction. I took that on face value. I had faith in him.

*Q.* So that this description that you give us now was the observation that you made of him at the time, is that right? *A.* Right.

*Q.* And did you give that description and observations to the authorities long before Hauptmann was ever arrested? *A.* Nearly two years, yes sir.

*Cross-examination by MR REILLY:*

*Q.* What am I, a heavyweight? *A.* You a heavyweight? May I look? [*Witness stepped down from stand and examined Mr Reilly.*] This don't hurt you, does it?

*Q.* No, not a particle. *A.* Undoubtedly a heavyweight. [*Laughter.*]

*Q.* And I take it you yourself are a heavyweight? *A.* Now?

*Q.* Yes. *A.* Yes.

*Q.* So we start even. *A.* Right—that is, physically. [*Laughter.*]

*Q.* Now in the course of your many activities did you ever study acting? *A.* I never did.

*Q.* Now, Doctor, did you ever teach theosophy? *A.* No sir.

*Q.* Did you ever have any experience or knowledge of signs, particular signs? *A.* Nothing, except what I would pick up, that might come incidentally in the course of my lectures.

*Q.* Did you ever read any books on signs? *A.* I never read a book on signs, except the Encyclopedia and dictionary, as a book of reference.

*Q.* Then you are not the John Condon who signed in the Public Library of New York, two weeks before the kidnaping, for the German Koch's *Book of Signs*, are you? *A.* I never took—

*Q.* —two weeks before the kidnaping for the German Koch's *Book of Signs*, are you?

*MR WILENTZ:* Just one minute, please, Doctor. There is nothing in the record, if your honor please, that any such thing ever happened.

*MR REILLY:* Now, there is—

*MR WILENTZ:* All right, I will withdraw the objection. Let him answer. He wants to answer the question.

THE WITNESS: Yes, sir I do want to answer it.

THE COURT: Let the witness answer the question.

Q. I have never taken a book from the New York Library; neither have I ever signed my name for any book, and I never took a book on theosophy or signs of any kind there, sir.

Q. Have you heard that a John Condon, two weeks before the kidnaping, signed for Koch's book on signs in the public library?<sup>1</sup>

MR WILENTZ: Just a minute, please, Doctor.

THE WITNESS: All right, you are the doctor, but I would answer him.

MR WILENTZ: That, if your honor please, whether he heard something is not material to this cause, if your honor please.

THE COURT: I am inclined to think that is so, Mr Reilly.

MR WILENTZ: And therefore, I object to it.

MR REILLY: May I take an exception?

THE COURT: You may.

MR REILLY: I now ask the attorney general of this state to produce the slip from the Public Library in New York, signed by a Doctor John Condon, which I understand is in his possession.

MR WILENTZ: I do not know as it is in my possession. I will get it, but it has absolutely nothing to do with this case, and when it is offered, I shall object to it.

MR REILLY: Now, I object to his voluntary statement as to what it has to do with this cause.

THE COURT: Well, the attorney general has told you that he will furnish it.

MR REILLY: That is all I want.

Q. Now, Doctor Condon, will you take a pencil or ink and a pad and write? A. Yes, I will.

Q. Now, Doctor, will you write, "John Condon", please. A. As my name?

Q. Just those words, "John Condon." A. No, it is not my name.

Q. What is your name? A. John Francis Condon, or John F. Condon.

Q. Well, will you write "John" please? A. Yes. [Writes.]

Q. All right, now will you continue. Put under it, please, "Francis." A. Yes sir. [Writes.]

Q. Now, will you write the "Condon" underneath that, please. A. With pleasure. [Writes.]

Q. And then will you give me, please, a copy of your signature. A. Yes sir. [Writes.] That is my bank signature.

Q. Perfectly safe with me, Doctor. A. I hope so. [Laughter.]<sup>2</sup>

<sup>1</sup>Mr Reilly had been misled by a rumor long before exploded. A certain John Condax of Philadelphia had withdrawn a book on signs from the New York Public Library. Condax himself had informed the authorities of the incident.

<sup>2</sup>This was "stage play." The writings were never used by Mr Reilly.

THE COURT: It may be marked for identification.

[*The sheet of handwriting by Dr Condon was marked Defendant's Exhibit D-7.*]

Q. When did you teach in Fordham? *A.* I taught in Fordham from 1929 to 1932.

Q. Then you stopped teaching—you retired? *A.* I did.

Q. Since then you have been more or less of a gentleman of leisure? *A.* No sir, never had a day's leisure in my life.

Q. Well, you have been traveling a lot around the country, haven't you, Doctor? *A.* That wasn't leisure.

Q. Just came back from a trip, didn't you? *A.* Trip? Came back from a little mission, yes.

Q. Well, the little mission ended in Trenton two days ago, didn't it? When did you arrive in Trenton—the day before yesterday? *A.* Yes.

Q. And where had you come from? *A.* From Brockton, Mass., and Rockland, where I lectured.

Q. Do you remember being in a town called Taunton? *A.* Yes.

Q. Did you have a conversation with the druggist? *A.* Yes.

Q. And did you at that time tell him that you had not yet discovered "John"? *A.* No sir.

Q. And didn't you say to the druggist at that time, "They haven't caught John yet; I'd give ten thousand dollars to find him"? *A.* Finished?

Q. Yes. *A.* No such thing. [*Laughter.*]

Q. You make sometimes extravagant remarks, don't you? *A.* No sir.

Q. You are always cautious about what you say? *A.* I am.

Q. You are enjoying your day here before these people, your first day in court that you ever testified; you are enjoying it, aren't you? *A.* No sir. I feel sad over it.

Q. Why, haven't you been preparing for weeks for this day in court by giving out statements to the press about what you were going to do to the cross-examiner? *A.* I will tell you, because I found insidious snares in every single place that I went, in order to trap me and make fun of me and ridicule me, and they haven't succeeded.

Q. Did the druggist up in Taunton ridicule you? *A.* He did not.

Q. What was his name? *A.* I don't know.

Q. Well, would you know if you heard it? *A.* I would.

Q. Donegan? *A.* That is the name.

MR WILENTZ: Just a minute. I have a letter from that gentleman which I would like to exhibit to Mr Reilly. Maybe it will help him in his examination.

MR REILLY: I don't want any assistance, Mr Attorney General.

MR WILENTZ: If your honor please, I present to the Court an unsolicited letter from Mr Donegan.

MR REILLY: Now I object to this. I object to it. If it keeps on, I will make a motion for the withdrawal of a juror.

MR WILENTZ: I will withdraw the offer.

MR FISHER: Do it anyway. Make the motion anyway.

MR REILLY: I move now for the withdrawal of a juror for this production of this paper and the statement of the attorney general and the declaration, and that we may have a mistrial, I will ask Mr Pope to argue the question of law.

MR POPE: I don't think it needs any argument, your honor. I think the question of the announcement of the attorney general was so manifestly out of order, unfair and prejudicial to the rights of this defendant that it requires no argument.

THE COURT: Have you finished?

MR POPE: Yes sir.

THE COURT: I will deny the motion for a mistrial or the withdrawal of a juror; and in connection with that I wish to caution the jury most emphatically to disregard everything that has been said in their hearing respecting what was said to be a letter from this Mr Donegan, the druggist up in Taunton, Massachusetts. I ask you to disregard that completely.

MR REILLY:

Q. Doctor Condon, so there will be no mistake and so that the record will have it, I ask you again: did you not recently in Mr Donegan's drugstore, in Taunton, Massachusetts, in the course of conversation with him concerning this case, say that Hauptmann was not the John and that you would give ten thousand dollars to find the John? *A.* I never said any such thing, sir.

Q. Do you recall a Sunday evening, to be exact, two weeks ago last Sunday evening, taking dinner at a restaurant known as the Oyster Bay on Eighth Avenue and West Forty-third Street, New York, a sea-food house? *A.* I ate there, yes.

Q. Did you there in conversation with a waiter, in connection with this case, say that Hauptmann was not the John? *A.* I did not.

Q. And you talked to a waiter, didn't you, about this case? *A.* That I don't recollect at present.

Q. Well, you have tried to recollect here some conversations of two years ago with people, and this, I am only asking you about a conversation two weeks ago; can't you remember it? *A.* If you tell me the conversation I shall, but I can't indefinitely; I can't answer anything indefinitely that way.

Q. Are you familiar with a camp in any place called Beckett? *A.* Yes.

Q. Where is that, in what state? *A.* Massachusetts. Center Lake, Beckett.

Q. Center Lake, isn't it? *A.* Center Lake is the lake, and the little town of Beckett, which you recollect, was washed away; the remnant is still there; yes sir; right.

Q. Were you there in the early spring of 1932? *A.* Yes sir.

Q. And when did you go there? *A.* Within a few days of Memorial Day.

Q. Was that after the ransom proceedings had finished? *A.* Yes sir.

Q. And who did you go there with? *A.* With a young man named Walter Goodwin.

Q. And how long did you stay, Doctor? *A.* Four days or five.

Q. Would you mind telling us what Walter Goodwin's business is? *A.* Walter Goodwin's business as far as I knew was to take me up there to that lake where he owns the little camp.

Q. Within the past month, Doctor, did you go to Miami? *A.* Yes.

Q. How many days did you spend there? *A.* Maybe four.

Q. Did you see any newspapermen while you were there? *A.* Plenty.

Q. Did you tell them at that time that Hauptmann was not the John? *A.* No sir.

Q. They asked you about this case, didn't they? *A.* They did.

Q. You never once told any newspaperman that this defendant was John, did you? *A.* Oh, I never did. I never told or mentioned his name to them or in public, never—note the words, Colonel—of affirmation or denial. I make a distinction between "identification" and "declaration of identification."

Q. In other words, I am to understand that you split hairs in words? *A.* No hairs at all. A man's life is at stake and I want to be honest about it.

Q. In Greenwich Street, New York, Police Station, you said it was not the man, did you not? *A.* No sir. Get all the people that were there; I did not.

Q. You never said it was the man? *A.* I never said it was or was not.

Q. Because you know you are not sure? *A.* Because I made the distinction between declaration and identification. The identification meant what I knew mentally; the declaration meant what I said to others. There isn't a man who breathes has ever heard me say that that was the man, but one.

Q. You were brought there for the purpose of identifying Hauptmann? *A.* I was, yes sir.

Q. And you didn't identify him, did you? *A.* No sir. Beg pardon, there is the word "identification" again. I take exception to your language. It would make a mistake and when you begin to divide the identification and declaration and denial, you would make it appear as though I were dishonest and I am not. I won't— Is that too severe, Judge?

THE COURT: No.

MR. REILLY:

Q. Come on, I can take it. *A.* That is good. I want you to know, Counselor, that the identification is purely a mental process after the senses have known, after the senses have distinguished, and unless

## TRIAL OF BRUNO RICHARD HAUPTMANN 237

that is taken that way to answer quickly, fast, I don't know but what it might be a kind of trap that you were getting me into. The declaration is where I tell it to others. Identification is what I know myself.

Q. Did you ever announce the identification of this defendant? *A.* I did.

Q. In any court of law before today? *A.* I did not.

Q. How many times in the past two years have you been asked by anybody about "John"? *A.* I didn't count how many times, but—

Q. Numerous, weren't they, thousands? *A.* Right, right; curiosity seekers.

Q. You wouldn't call Inspector Sullivan of the Police Department of New York a curiosity seeker, would you? *A.* I didn't tell him pro or con.

Q. You wouldn't call a judge that sat in the extradition proceedings up in the Bronx a curiosity seeker, would you? *A.* I don't know anything about that.

Q. Do you know Judge Hammer of the Bronx? *A.* Very well, but I wasn't before him.

Q. Well, the State didn't call you, did they? *A.* [No answer.]

Q. Neither New York State nor Jersey called you, did they? When Bruno Richard Hauptmann was on trial for extradition only two or three months ago, in October, in the Bronx, and you, with the secret locked in your heart—you were not called, were you? *A.* Only by the jury—

Q. I am talking about that proceeding. Were you called? *A.* No.

Q. And that proceeding was after you saw Bruno Richard Hauptmann in Greenwich Street and Centre Street? *A.* To the best of my recollection, yes.

Q. Now, when you decided after the kidnaping that you would like to do something in the way of aiding the colonel in the recovery of his child, that was how many days after the kidnaping? *A.* As I recollect it, the first of March the baby was taken away; by the seventh of March I had determined to do something to help him and Mrs Lindbergh to get the baby back, yes.

Q. That was six days after? *A.* Yes.

Q. During those six days you had never seen the note left in the crib, had you? *A.* I had not.

Q. During those six days the note, as far as you know, with the symbols left in the crib was in the possession of the authorities, right? *A.* Colonel Lindbergh, I thought; in the possession of Colonel Lindbergh was my impression. I had not seen it.

Q. You had no knowledge of any signature up to the seventh of March? *A.* I had not.

Q. The little Bronx *News*. *A.* The what—you mean the Bronx *Home*

*News?* A hundred and fifty thousand circulation and over is a pretty good paper.

Q. Are you a stockholder? *A.* No sir.

Q. But still, you have the circulation right at your finger tips? *A.* No sir. It was the question such as you gave that had been brought since that made me recollect that I might have made a mistake in sending it to a little Bronx paper; but it wasn't a little Bronx paper. I resent that—

Q. Well, whether you resent it or not, it is a fact that you knew there was such an association in the United States as the Associated Press, did you not, that reached every town and hamlet in the world? *A.* I did.

Q. You knew also in the United States there was the United Press? *A.* I did.

Q. You knew there were other press agencies? *A.* Yes sir.

Q. You knew that for six days the newspapers of the world had printed the fact, and the unfortunate fact, that Colonel Lindbergh's child had been taken? *A.* I did.

Q. And you decided that you thought you might be able to get in contact with the kidnapers? *A.* I did.

Q. Was that because of your former contact with ex-convicts and people of the underworld? *A.* Had nothing to do with it, and I had no associations with ex-convicts. Those stories in the paper were lies.

Q. Then why did you pick a local Bronx Borough paper with a circulation of a hundred and fifty thousand, with all of New York's six million people, to insert your ad? *A.* Because those papers all led toward one poor miserable fellow that I thought was innocent. His name was Arthur Johnson.

Q. Arthur Johnson never lived in the Bronx? *A.* He lived at City Island.

Q. Did you know Red Johnson? *A.* I did not.

Q. Then why should you, a doctor of philosophy, an A.B., a professor of Fordham, suddenly decide that you would protect Red Johnson, a sailor on a yacht, unless you knew him? *A.* I'll tell you why: because I always hated to see an underdog and always gave him a chance throughout my life, and I had heard that Arthur Johnson had nothing to do with it, from many people. I was at that time going in among them and questioning them concerning the probabilities of the case.

Q. What people told you Red Johnson had nothing to do with it? *A.* A number of sailors. I visited every single shipyard there; went to every sailor that I could find and found out that Arthur Johnson was not that kind of a fellow.

Q. And what would the sailors on City Island, sailing up and down the Sound, know about the kidnaping in Hopewell? *A.* They weren't sailors sailing up and down the Sound. They were men in the ship-

yard, and at the shipyard in City Island, those repairers to the yachts.

Q. How would they know this inconspicuous Danish deck hand on Lamont's yacht? *A.* I don't know that he is Danish. I didn't know that he was inconspicuous, judging from his treatment.

Q. Did you learn that he phoned Betty Gow at half-past eight the night of the kidnaping? *A.* I knew that the night of the kidnaping.

Q. How did you know it if you were not in contact with him? *A.* I will tell you how I knew it. I knew it because it was spread around, all through that—

Q. You said you knew that the night of the kidnaping? *A.* That occurred the night of the kidnaping.

Q. No. You said you knew it the night of the kidnaping. *A.* Did I say that?

Q. Yes, you did. *A.* I said that—when you spoke, that he, Arthur Johnson, had telephoned to Betty Gow on the night of the kidnaping, but I had never seen—I add it again—I had never seen Red Johnson, as called, I mean Mr Arthur Johnson.

Q. What about Whateley? *A.* I don't know what you mean.

Q. You never heard of Whateley, the butler in the Lindbergh home? *A.* I heard of a man named Mr Whateley in Colonel Lindbergh's home.

Q. When did you hear of that? *A.* I heard of that about the eighth of March 1932.

Q. Why do they call you "Jafsie"? *A.* I will tell you; it is the simplest thing in the world. I was told by men in the Secret Service, men who in the Department of Justice knew the work, that "Jafsie" might carry me through it and the name "Condon" wouldn't. I wasn't ashamed of Condon, but my initials are J. F. C. and if you will repeat them pretty quickly you will find they form the word "Jafsie." Will you do that?

Q. Yes, Jafsie. *A.* That is right.

Q. Now, let me repeat the other names that come to my mind. You say the kidnapere was known as John? *A.* Yes sir.

Q. That is your name, too, isn't it? *A.* Yes sir.

Q. So you decided that because somebody was accusing somebody that you didn't know, never heard of before, a deck hand on the Lamont yacht, by the name of Red Johnson, you ought to come and spring to his assistance by inserting an ad in a local paper in the Bronx, right? *A.* I didn't say—no sir—

Q. Isn't that what you said? *A.* I didn't say that was the chief reason, no sir. I had some reasons for putting the letter—not an ad then—the ad didn't come first.

Q. All right, a letter in the Bronx *News*? *A.* Bronx *Home News*.

Q. Now, of all the big metropolitan dailies, you didn't bother with them, did you? *A.* No sir.

Q. Yes, and didn't you do that because you knew at that time that the kidnaping band were waiting for your letter in that paper? *A.* No sir.

Q. Yet within twenty-four hours after it was published in that little paper a letter came to you, did it not, from Williamsburg, Brooklyn, dated March eighth? *A.* I would like to see that; I didn't recollect that it came from Williamsburg. May I see that exhibit, please?

Q. I think we will get to it. *A.* All right.

Q. When do you say Johnson's name was first mentioned in the public press in connection with this case? *A.* As nearly as I can recollect, the first search was made when the paper announced that he went through Holland Tunnel with a milk bottle in his car.

Q. When was that in the paper? *A.* I don't know, but I saw it in the paper.

Q. Now, isn't it a fact that that was in the paper on March fifth? *A.* I couldn't say that, sir.

Q. You wouldn't say that you read it in March second paper, would you? *A.* No sir.

Q. You wouldn't say you read it March third? *A.* I don't remember the date, sir.

Q. Well, when did you first develop this keen interest in Johnson, what date? *A.* Around the seventh of March. It may have been the sixth or seventh. I could tell by the calendar of 1932 because it was Sunday night.

Q. I take it that you appreciated that everybody in the house with the exclusion of Colonel and Mrs Lindbergh were under suspicion? *A.* No.

Q. Of course you had never read in all of your vast experiences of English butlers not being honest, had you?

MR WILENTZ: I object to that, if your honor please.

THE COURT: I am inclined to allow the doctor to answer this single question.

THE WITNESS:

*A.* Thank you. I have never heard that honesty applied to any nationality.

Q. Will you answer my question; had you ever heard or read in all your vast experiences of English butlers who were not honest? *A.* I did not.

Q. Well now, were you in New Rochelle in 1932, Doctor? *A.* Yes sir.

Q. Did you lecture in the New Rochelle College? *A.* At the College of New Rochelle, yes sir.

Q. Were you there in March 1932, is that right? *A.* Yes sir.

Q. In one of your visits to New Rochelle in the spring of 1932, did you meet a young lady there? *A.* Well, I had a woman's class, so I had to meet the young ladies, whether I wished to or not.

Q. This young lady did not belong to the women's class. *A.* Then if I met her, if you shall specify, I will tell you.

Q. Do you recognize this picture, Doctor? [*Showing photograph.*] *A.* No, I do not recognize the picture, never having seen that person in my life.

Q. Was there any other person except Johnson that you desired to aid by your letter, which person had either been accused justly or unjustly, before March the seventh? *A.* No sir.

Q. So that on March seventh you did write a letter to your local paper; is that correct? *A.* Yes sir.

Q. How soon after that did you receive a reply to your personal appeal in the Bronx *News*? *A.* About three days, the seventh to the tenth or eleventh, as nearly as I can recollect.

Q. In an envelope marked Williamsburg, Brooklyn? *A.* I do not recollect the mark upon the envelope now. But I could tell you if I saw it.

Q. Did you turn over to the authorities every letter that you received during the ransom negotiations? *A.* Yes sir.

Q. Do you remember receiving two letters in the same kind of hand writing as the letters in evidence, with the same kind of symbols on them, which you did not turn over to the authorities? *A.* There was no such thing. Every letter that I got without exception with the symbol on was turned over either to Colonel Schwarzkopf, who was working with me, to Captain Oliver, of the City of New York, or Inspector Bruckman, of the Bronx. Every one to the authorities.

Q. How did you indicate they should communicate with you? *A.* My name and address, 2974 Decatur Avenue, the Bronx, where I lived, and do now.

Q. And now about Exhibit S-42, I will ask you again, Doctor, to identify that so we can go along in the natural sequence of the letters. *A.* Yes sir.

Q. They both came in here, did they, referring now to S-43? *A.* Well, I don't know them by the numbers.

Q. That was directed to you and it had inside a letter, S-44, contained in envelope, S-45, which asked that it be delivered to Colonel Lindbergh? *A.* Right.

Q. And of course you read it? *A.* Yes sir.

Q. And you received this, do you recall what day it was? *A.* It was, I thought, three days after the seventh or very near that, anyway.

Q. Your appeal went to the newspaper office on the seventh, published on the eighth? *A.* Yes sir.

Q. And according to this stamp it appears that it was mailed at midnight in New York station March the ninth; is that correct? *A.* Well, that would make it the tenth—I said three days; that is right.

Q. It is fair to assume from that you received it in the morning mail of the tenth? *A.* Yes.

Q. If the kidnaping band were not anticipating something from the Bronx *News*, didn't you think it strange that the appeal should not be published in the metropolitan dailies? *A.* No sir.

Q. And of course you did not know the kidnapers? *A.* I did not.

Dr Condon was shown two letters, the first granting him permission to act as a go-between, the second one addressed to Colonel Lindbergh. There appeared to be confusion in the mind of the witness as to when he first saw the familiar symbols on the note addressed to the colonel, but eventually he testified that he saw them at the time he telephoned to the Lindbergh home from Rosenhain's restaurant. Rosenhain also saw the symbols at that time. The witness was then shown another letter he received on March twelfth.

Q. Now, between the receipt of the letter that you took to Hopewell and this particular letter which I have shown you, delivered March the twelfth, did you do anything in connection with the instructions contained in the first two letters, the first letter to you, and the first letter to Colonel Lindbergh that you delivered to him? *A.* Yes, when I went down to the colonel's house I went upstairs and the colonel and Colonel Breckinridge were there at Hopewell.

Q. Well, I mean after you left Hopewell, when you came back the next day? *A.* I went over the instructions and then Colonel Breckinridge asked if he might carry on the work that he thought I had started by means of the letter. I said, "Here is the house. Come on up and take it; it is yours."

Q. In your house? *A.* Yes sir.

Q. Colonel Breckinridge lived up at your house about a month, didn't he? *A.* Not then. He hadn't started to live there then.

Q. Is it fair to assume that, between the receipt of the letter you took to Hopewell and the receipt of the letter of March twelfth, that you didn't do anything? *A.* I planned every single thing that I could in order to get Colonel Lindbergh's baby back to its mother.

Q. Did you do anything—did you go any place? *A.* Yes.

Q. Where did you go? *A.* Every place that I got any kind of a lead, and among them was up to City Island.

Q. You had a boathouse there once, didn't you? *A.* A shack, if you would allow me to tell you; I had a shack.

Q. When did you have it? *A.* Oh, since—I have it still. It is mine for the time being. Nineteen-sixteen, to the nearest recollection.

Q. Now, you said between the receipt and delivery of the colonel's letter to Hopewell and the receipt of the letter by messenger on the twelfth of March to your home, you had gone to City Island? *A.* As I feel now, I am not sure.

Q. Now, when you received State Exhibits 47 and 48, the letter that

was delivered at your house, which letter I will hand to you, where did you go? *A.* After I received it I went to a frankfurter stand at the end of the elevated structure on Jerome Avenue, west side, frankfurter stand, north of that station.

*Q.* Now, will you be good enough to take the same letter and count the "we's" in that. *A.* Yes sir. I only make out two so far, as I read quickly over it.

*Q.* When you took the car to drive to the last station of the Jerome Avenue line were you accompanied by any police? *A.* No sir.

*Q.* Who did you go to that frankfurter stand with? *A.* With Alfred J. Reich, who was at my house at the time.

*Q.* And when you arrived at the frankfurter stand, did you get out of the car? *A.* I did.

*Q.* Had you ever seen that frankfurter stand before? *A.* Never noticed it before. I might have seen it, glanced at it passing by.

*Q.* It had a big open porch around; is that right? *A.* It had an open porch.

*Q.* How large a stone was there? *A.* Well, I didn't measure it.

## SEVENTH DAY

*Flemington, N. J., January 10, 1935.*

**J**OHN F. CONDON resumed the stand:

Dr Condon admitted he did not pick up the note from beneath the rock carefully; he had not been instructed to be careful of fingerprints. The fence at the cemetery, he said, was about nine feet high, and was "dangerous" to climb. He talked with the cemetery guard after he had had his conversation with "John."

**MR REILLY:**

*Q.* Rather unusual, wasn't it, for a man to be climbing out of a graveyard at night? *A.* I don't think so.

*Q.* Did you ever climb out of one at night? *A.* I never went in one at night.

The cross-examiner carried the witness through a repetition of his account of the Woodlawn Cemetery conference and elicited the information that during the conversation on the park bench "John" coughed only once. The examination then turned upon the receipt of the child's sleeping suit. Dr Condon repeated his story of finding two letters enclosed in the wrapping around the suit, one of which was addressed to Colonel Lindbergh. Later, when the ransom note containing directions for having the money ready on April second had been received, only three persons—Colonel Lindbergh, Colonel Breckinridge and the witness—knew the contents of it. The doctor never, he said, divulged any official business to any person "while it was being conducted."

Turning to the making of the box in which the ransom money was passed to the kidnapers, the witness said it had been constructed from 5-ply wood, by a wood carver on Webster Avenue, whose name he could not recollect. He did not ask the kidnapers to return the box and did not know whether it was ever found afterwards. Mr Reilly asked him numerous questions designed to test his memory regarding the flight with Colonel Lindbergh over Long Island Sound in search of the "boad Nelly."

*Q.* Now, on April tenth, at City Island, did you say to any of the neighbors that you believed there was a gang of four or five connected with the Lindbergh baby kidnaping?

**MR WILENTZ:** Just a minute. I object to the question, if your honor please. I have no objection to the question if it is limited to some

particular person or persons, but it is impossible to meet this sort of a question, if your honor please, in any other way.

MR REILLY: It is cross-examination. He said he talked to his neighbors many times on City Island. It is a small place.

MR WILENTZ: May I suggest in response to that, if your honor please, that I take it if counsel directs this form of a question that it is based upon some information and that would have to be on the basis that some person or persons whom he knows he thinks were addressed in that fashion. Now, just to leave the question an inference just wide open, I don't think is quite a fair question.

THE COURT: I think the rule is that the witness should have his attention directed to individual or individuals and the time and place.

MR REILLY: But may I first ask him in a general way if he spoke to the neighbors, and if he says no, am I not bound by his answer? Is this not more or less collateral?

THE COURT: Spoke to the neighbors about what?

MR REILLY: About this kidnaping.

THE WITNESS: Certainly.

MR REILLY:

- Q. On City Island on April tenth? *A.* Certainly.
- Q. You did speak to the neighbors. *A.* I did, many times.
- Q. Now in your conversations with the neighbors of yours on City Island on April 10, 1932, did you tell them that you believed that it was a gang of four or five that had kidnaped the Lindbergh baby? *A.* I don't remember.
- Q. Did you ever tell anyone that you were the Jafsie mentioned in the ad? *A.* Yes sir, everybody I knew.
- Q. And did you also tell those people different incidents of your transactions with the so-called kidnapers? *A.* Only after—
- Q. After it was published? *A.* Right, yes sir.
- Q. Did you ever say a woman took part in the negotiations?

MR WILENTZ: Just a minute. That I object to, if your honor please, unless the time and place and person are indicated in the question.

MR REILLY: He says he has talked to everybody that talked to him.

THE COURT: I know, but we ought to proceed in an orderly fashion.

MR REILLY: Your honor holds that that is not a proper question?

THE COURT: Yes.

MR REILLY: May I have an exception?

THE COURT: Yes.

MR REILLY:

- Q. Did you say on the visit to the district attorney's office in the Bronx, in May of 1932, to a group of people that asked you questions, did you say to them there at that time that you knew the abductor? *A.* I did not, to my recollection.
- Q. Did you ever go out on a boat in connection with this case? *A.* Yes.

Q. Were you taken blindfolded aboard a boat at any time? *A.* I was never blindfolded by anybody in my life.

Q. Now, where was the boat, please, and under what circumstances did you get on the boat? *A.* The Department of State Troopers, under Colonel Schwarzkopf, who was in close touch with me, sent a man by the name of Samuel Laon, and he had a companion with him. They asked me to go with them to Boston. I got on their boat and went with them to Boston, Massachusetts, on the case, if that is what you refer to, sir. A steamboat.

Q. Did you ever stand on the deck of a boat upon which you thought a lady had been hidden below the deck? *A.* Never.

Q. Did you ever visit a boat anchored just above Throgg's Neck? *A.* Many times.

Q. In connection with this case? *A.* In connection with this case.

Q. Give me the first time you were on a boat at Throgg's Neck, in connection with this case. *A.* I didn't get on the boat that I went to see; I stayed in my own rowboat, a pilot boat.

Q. Did you see some men on the other boat? *A.* I saw some men on the other boat.

Q. Did you talk to them? *A.* I did.

Q. Did one speak with a German accent? *A.* I couldn't recollect that unless you told me what he said.

Q. Well, give me a description of the men you talked to. *A.* One of them was known as "Coal Barge John."

Q. Give me a description of him, will you? *A.* A man who has been working on those boats for years.

Q. How many men were on the boat? *A.* I couldn't tell you.

Q. How many men did you see? *A.* Two at least.

Q. You went out on that boat, believing those men were the kidnapers—

MR WILENTZ: Just a minute.

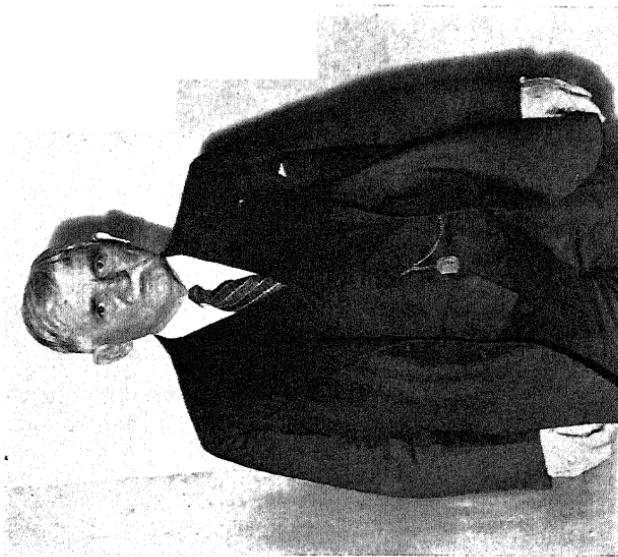
THE WITNESS: No sir.

MR WILENTZ: All right. I object to any questions about his beliefs, if your honor please, without counsel asking him any more, because apparently the witness won't wait for my objection. But I object to any questions about his beliefs at that time or any time, because they are not material and admissible. I think counsel knows that.

MR REILLY: I think they are material for this reason: if he ever saw anybody on a boat and came back and made any statements concerning that person that he believed to be an interested party in this particular case different from what he said at this trial, I think it is material.

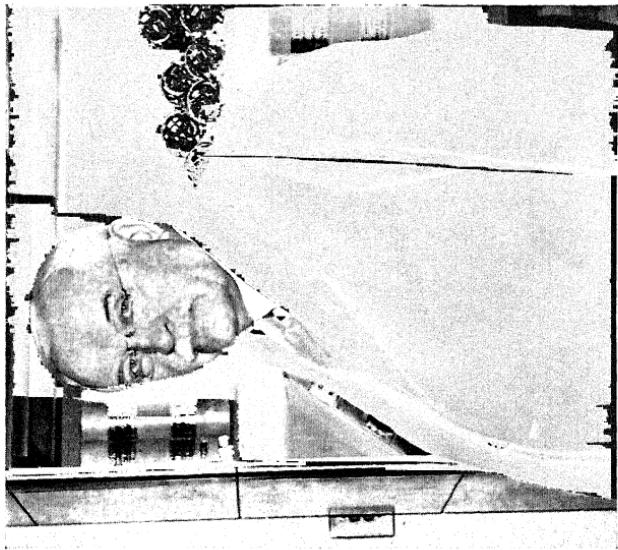
THE COURT: Well, of course, the Court will have to deal with the questions as they are put, Mr Reilly.

MR REILLY: I cannot put them in advance, because my witness is not



*Acme*

DR JOHN F. (Left) CONDON  
This eccentric gentleman was probably the most  
dramatic figure in the case. His evidence  
was damning.



*Acme*

ALBERT S. OSBORN  
internationally famous handwriting expert, whose  
testimony concerning the ransom notes dealt  
Hauptmann's cause a fatal blow.



a child and he listens to me as I address your honor and the value of the cross-examination will be swept away.

MR REILLY:

Q. How many boats did you visit after you paid—and I am not talking about steamboats that you rode on or the rowboats that you rowed in—how many boats did you visit after you paid the ransom money in connection with this case?

MR WILENTZ: Excluding steamboats and rowboats?

MR REILLY: I don't want anything he rode on. I want boats he went to visit.

THE WITNESS: I don't recollect one. One that I told you about was the only thing that I visited, and then I did not go aboard.

MR REILLY:

Q. Now, Doctor, do you recall being in Childs Restaurant, New York, Broadway, in the neighborhood of Sixty-seventh Street, during the month of December 1934? A. I was there at Childs Restaurant, visited it frequently, but the exact moment I don't know.

Q. Did you meet there a man named Marcus Griffith, or Griffin, of the New York *Inquirer*? A. Not to my knowledge.

Q. Did you talk to a man in Childs Restaurant the last time you were there in December 1934? A. Yes sir.

Q. Did you tell Marcus Griffith of the New York *Inquirer*, in Childs Restaurant, during the month of December 1934, that the child's body was brought back to the spot where it was found buried, and you knew that to be a fact? A. I don't remember having said so.

Q. Now I want the exact date, if you can recall it, when you say you saw Hauptmann in the Bronx and you were riding in a bus. A. The exact date of the month I do not know, but it was in the latter part of August 1934.

Q. And you didn't think it of enough importance to write that date down, did you? A. Not the date.

Q. Give me the number of the bus. A. I didn't take that.

Q. Did you take the chauffeur's number? A. I did not.

Q. It is your sworn testimony then, is it, that you saw the man in August 1934? A. Yes sir.

Q. On the street in the Bronx, the man to whom you had handed the \$50,000 ransom, the man you believed to have double-crossed you, and you made no outcry? A. I didn't say that. I didn't say that I didn't make any outcry.

Q. Did you make an outcry? A. I did.

Q. In the bus? A. In the bus.

Q. Give me the name of a person that heard you. A. I didn't know anybody. I was alone.

Q. Did you take anybody's name? A. I didn't know anybody.

Q. In what direction did this man go that you saw in August? A. Northeasterly direction, that is—

Q. Where did he disappear? *A.* He disappeared in the woods north of Pelham Parkway.

Q. Do you remember two ladies calling on you during the time you were conducting these ransom negotiations at your home on Decatur Avenue? *A.* Many hundreds of them.

Q. Will you recognize one of them if you see her? *A.* I think so.

MR REILLY: Mrs Corran, stand up please.

THE WITNESS: Have her come over this way, please, so that I can get a good look. [*A woman came forward and stood before the witness.*]

MR REILLY:

Q. Do you recognize this lady as being one of the ladies that called at your home? *A.* There were two ladies: Mrs Bush—yes sir, I recollect her.

Q. Did you say in her presence and to her companion that the handwriting on these two letters was the handwriting of the kidnapers? *A.* No sir.

Q. And did you say to this lady and the lady that was with her that you knew the kidnapers to be four in number? *A.* Not to my recollection.

Q. Did you ever tell anyone that the headquarters of the kidnapers was at City Island? *A.* No sir.

Q. Did you ever tell anyone that you knew the headquarters of the kidnapers? *A.* No sir.

Q. Did you ever tell anyone that you were receiving mail from City Island from an agent of the kidnapers? *A.* Not to my recollection.

Q. Were you ever connected with School 35, or rather, the school on Thirty-fifth Street on Ninth Avenue, Manhattan? *A.* I was principal.

Q. When you left there, in 1902, where did you go, what school? *A.* I was transferred by request to Public School 97 then, No. 12 now. They changed the numbers.

Q. By whose request were you transferred? *A.* By my own.

Q. Weren't you transferred by the Department of Education? *A.* They do all that transferring.

Q. Weren't you transferred, not at your request, but at the request of teachers in the school? *A.* No sir.

Q. Weren't you transferred to another school because of conduct—

During a legal argument as to the admissibility of evidence the witness responded "no" to a question as to whether he was not transferred because of "conduct unbecoming a gentleman with a woman teacher", before Attorney General Wilentz could complete an objection to the question. At this point, the cross-examination of John F. Condon came to a close.

# TRIAL OF BRUNO RICHARD HAUPTMANN 249

*Redirect examination by MR WILENTZ:*

*Q.* You will recall that with reference to the first letter that you received at your home and which you say you got about ten o'clock that night after which you went to Rosenhain's restaurant and called Colonel Lindbergh's home, with reference to that incident, my recollection is that your testimony indicated that one of the letters was not opened until you got to Colonel Lindbergh's home. Is that the fact or not? *A.* That is not the fact.

*Q.* Would you like to tell us what was the fact? *A.* Yes sir. I took two letters, which were enclosed, one of which had signals on them, as I learned after, and one addressed to me, which had no signals, symbols or signature upon it. I had that one which was addressed to Colonel Lindbergh and sealed in my hand with the other one; called up Hopewell and asked if I might see Colonel Lindbergh as I had a letter that I thought might be important because in the opening—

*Q.* No, never mind. Now, as a result of that, what direction did you get over the telephone from the person you believed to be Colonel Lindbergh?

**MR REILLY:** I object to it on the ground that he did not know Colonel Lindbergh's voice at that time.

**THE COURT:** You may inquire of the doctor whether or not he now knows that that was Colonel Lindbergh's voice.

**THE WITNESS:** I say the first one who came to the telephone was not Colonel Lindbergh.

**MR WILENTZ:**

*Q.* Well, as the result at any rate of whatever it was that was said to you over the telephone that night, you being in Rosenhain's restaurant, and the voice being elsewhere down at Hopewell, what did you do? *A.* I asked permission to open a note.

**MR REILLY:** I object to it.

*Q.* What did you do as the result of it? Did you open it after you talked on the wire? *A.* I got permission—

**MR REILLY:** I object to it.

**THE COURT:** The question now is: what did he do? He may state that.

**MR WILENTZ:**

*Q.* Tell us what you did, Doctor? As the result of the conversation which you had over the telephone with Hopewell that night from Rosenhain's, did you then open that letter you are talking about? *A.* I did.

*Q.* And was that the letter which you talked of as first being sealed and addressed to Colonel Lindbergh? *A.* It is.

*Q.* And when you read that letter over the telephone did you describe, whether it was at your own instigation or at the request of the per-

son on the other side, the symbol and signature? *A.* I read that letter.

*Q.* Did you refer to the symbol at all when you were talking over the telephone? *A.* I did.

*Q.* So that my recollection is that earlier in the testimony, however, you stated you took the sealed envelope to Colonel Lindbergh. *A.* I did; that is an error.

*Q.* Now, with reference to the wood carver that you spoke about, and you gave the address and not the name, did you give the name to the authorities at the time? *A.* I did.

*Q.* Now, some short time ago, when counsel for the defense was interrogating you with reference to what you did or what you didn't say to various people that you have met in these years, the question was asked you whether or not you didn't tell somebody that the child's body was moved to the place where it was eventually found. Now let me ask you this: did you at any time from March 1, 1932, and up to the present time, did you at any time, and do you know now how that body was placed in the grave in which it was found in Mercer County, New Jersey? *A.* I do not.

*Q.* Early in the cross-examination you were asked the question: did you learn that he phoned Betty Gow at half-past eight the night of the kidnaping—referring to Mr Johnson. My recollection is that your testimony was: "I knew that the night of the kidnaping." Now, is that correct? *A.* No. I knew that was so on the night of the kidnaping.

*Q.* When did— *A.* I didn't know it on the night of the kidnaping.

*Q.* When did you ascertain that—not accurately; to the best of your recollection? *A.* It was after my meeting with John at Woodlawn Cemetery on March 12, 1932.

*Q.* Where did you get the information, in other words? *A.* From John.

*Q.* About the newspapers? *A.* No.

MR REILLY: Don't lead him, Mr Attorney General, please. Go ahead. I have been waiting to hear this.

MR WILENTZ:

*Q.* What I want to know is this, sir. At some time or other you learned that Miss Gow had received a telephone call from Mr Johnson. When did that information come to you and how did it come to you, if you remember? *A.* It came to me through general gossip and the newspapers.

*Q.* When was the first time that you saw the symbol which is attached and affixed to these various notes which are in evidence? *A.* About March 12, 1932.

*Q.* What date did you receive the first note? *A.* The first time I received the symbol—around the ninth or tenth of March, as nearly as I can recollect.

Q. When you saw it for the first time, under what circumstances did you see it? A. The opening of the sealed letter which was addressed to Colonel Lindbergh, to the best of my recollection.

*Re-cross-examination by MR REILLY:*

Q. Now, you come in here at the close of your cross-examination and you say that when you used the language yesterday that you had taken a sealed note to Colonel Lindbergh at Hopewell, that that was a mistake? A. I did say that and it was a mistake, yes.

Q. When you testify now, rather when you testified yesterday, and used the language that you knew the night of the kidnaping that Red Johnson had phone to Betty Gow, was that a mistake? A. It was.

HENRY C. BRECKINRIDGE

*Direct examination by MR WILENTZ:*

The witness said he had been a member of the New York Bar for twelve years and a friend of Colonel Lindbergh for seven; that he was at the Lindbergh home on the night of Dr John F. Condon's arrival in Hopewell, and that he met him at that time. From then on, his association with Dr Condon was close, and he remained at the doctor's home almost constantly until about May 12, 1932.

He was present, together with Dr Condon and Ralph Hacker, in Condon's home when the package containing the sleeping suit arrived. Everything there was in the package was delivered to Colonel Lindbergh.

Q. Now, these notes were coming to Doctor Condon, and on occasions you were there. Did you have anything to do with the advertisements in the paper responding to these notes? A. Yes sir.

Q. Am I to understand, then, that when a note would come, and you and Doctor Condon would confer about it, sometimes with Colonel Lindbergh, sometimes without, and as a result of that conference, if an advertisement was to be inserted, you would cause it to be inserted? A. Yes sir, that is true, except as to the first advertisement, which was inserted before any contact with Doctor Condon.

Q. And as to that first advertisement, so far as you know, that was a voluntary one on the part of the doctor, without your knowledge? A. No sir, it was not. It was—the one to which I refer was inserted at my directions after the receipt of a letter to me by the kidnaper.

Q. So that from the time that you met Doctor Condon up to the time that the ransom money was paid, all the ads that were inserted in the paper, were they all inserted by you? A. Yes sir, at my initiation.

Q. And charged to your account? A. Yes sir.

Q. In Doctor Condon's transactions during that period, did he comply with the instructions and suggestions as given by you? *A.* Yes sir.

Q. Were you in the Condon home the night that the taxi driver delivered a note on March 12, 1932? *A.* Yes sir.

Q. Do you recall the night Doctor Condon left on March twelfth? *A.* Yes sir.

Q. Prior to going there, did he discuss it with you? *A.* Yes sir.

Q. Did he go with or without your consent? *A.* With my consent.

Q. And, of course, during those times you were acting for Colonel Lindbergh? *A.* Yes sir.

Q. Now, on the night that the money left the Condon home in the box that has been referred to and described in this court, were you present at the Condon home that night? *A.* Yes sir.

Q. Tell us, please, as best you can remember, just how that money was brought there, and if you had any part in bringing the money there? *A.* The money was brought in two separate packages in two separate conveyances from the house of Mr Francis Bartow, \$50,000 of it in an automobile in which were Colonel Lindbergh and Mr Al Reich; the other one by myself, the \$20,000 by myself in another automobile.

Q. You arrived at the Condon home, I take it, and when you did, both packages of money being there, what was done with the money? *A.* It was inserted in a box.

Q. What kind of a box was it? *A.* It was a wooden box.

Q. Who had procured the wooden box? *A.* Doctor Condon.

Q. Was it procured with your consent and with your knowledge? *A.* Yes sir.

Q. Was it a part of the plan which you men had proceeded with, as you thought, in accordance with the instructions given by the kidnap? *A.* Yes sir, plus some other considerations.

Q. Did you see that money box leave with Colonel Lindbergh and Doctor Condon on the Saturday night, April 2, 1932? *A.* Yes sir.

Q. Were you present at the time when a note arrived? *A.* Yes sir.

Q. Had you been expecting directions that night? *A.* Yes sir.

Q. Did you expect there would be a call for the money that night? *A.* Yes sir.

Q. Had you caused an ad to be inserted with reference to it? *A.* Yes sir.

Q. That Saturday? *A.* Yes sir, to be inserted in both the *New York American* and the *Evening Journal*, in accordance with the directions of the kidnap note.

Q. That is to say, did you get directions from the note which asked you to insert the ad for that Saturday? *A.* Yes sir; and the note also said that "in case you have not time, insert it in the *Evening Journal*", so it was inserted in both papers.

Q. I show you Exhibit S-37: "Dear Sir: Have the money ready by Saturday evening." Now, was this note, S-37, with reference to Saturday evening, April 2, 1932—how soon before that was this note received, S-37? *A.* That note, as I remember, was mailed on the first of April and was received, I think, the evening of the first of April, or early Saturday morning. I think the evening of the first of April. So we put the ad in both the morning New York *American* and the *Evening Journal*.

Q. Then, as I understand it, the advertisement put in these two papers was the result of the receipt of S-37? *A.* Yes sir, and the language of the advertisement conformed to the direction of the kidnap note.

Q. Did you then cause to be inserted the advertisement which appeared, "Yes, everything O.K., Jafsie"? *A.* Yes sir.

Q. So that on the very Saturday, April 2, 1932, when you were there and Condon was there, you expected word any time to bring the money, didn't you? *A.* Yes sir.

Q. And that is why the money was there? *A.* Yes sir.

Q. Was Colonel Lindbergh there? *A.* Yes sir.

Q. What time did he arrive? *A.* He arrived in the latter part of Saturday afternoon with Mr Al Reich, conveying the \$50,000.

Q. Tell us just about the situation in that home, what you did there. *A.* The money was packed; in packing it in the box, the box was a little split, because the box seemed to be designed to contain exactly the money, by its dimensions and volume, whereas the money was wrapped in paper and tied with string, and in trying to close the box, it broke. Something after eight o'clock, as I remember, the expected note arrived.

Q. What was the situation as you men sat around waiting? *A.* The situation—all I can say is, that it was such as one would expect, people waiting for such an event.

Q. What happens immediately upon the arrival of the note—who sees it, who looks at it, and what is done? *A.* I think that Doctor Condon received the note in the presence of his daughter, Mrs Hacker, brought it back to the rear room where the rest of us were, the rear room of Doctor Condon's house.

Q. Did you hear the doorbell ring? *A.* Yes.

Q. Now, from the moment that doorbell rang and Doctor Condon got to the door, what I want to know is, did he immediately come back with the note? *A.* He did.

Q. And was it, or was it not, opened in your presence? *A.* It was.

Q. As the result of the receipt of that note, was it, that Colonel Lindbergh and Doctor Condon departed with the money? *A.* It was.

Q. How soon after the receipt of the note? *A.* I should think ten minutes.

Q. I take it that from the time you and Colonel Lindbergh started discussing this matter and Doctor Condon entered into the case, the

matter of whether or not the money should be paid was discussed?

*A.* It was.

*Q.* Tell me whether Doctor Condon ever suggested or urged that this money should be paid. *A.* He did not.

*Q.* Isn't it a fact that he urged that the money shouldn't be paid? *A.* Except upon a C.O.D. delivery.

*Q.* Except when the child was delivered, you mean? *A.* Yes sir.

*Q.* Was there ever one cent paid to Doctor Condon for the time and the trouble and the effort and the expense that he underwent in connection with his contacts with you? *A.* No sir.

*Q.* Did he ever request it? *A.* No sir.

*Q.* You slept at his home? *A.* Yes sir.

*Q.* You ate there? *A.* Yes sir.

*Q.* I take it, Colonel, that while you were there and during those times other people came? *A.* Yes sir.

*Q.* You received one of the letters with the symbol on that is already in evidence, I think. Mr Reilly kindly consented earlier in the proceedings not to annoy you with it, but while you are here, State's Exhibit S-23—well, let me ask you: Colonel Breckinridge, you have seen this envelope, have you not, addressed to you: "Mr C. O. Henry L. Breckinridge"? *A.* Yes sir.

*Q.* That was brought to you at Hopewell from your office? *A.* Yes sir, by Mr Phelan of my office.

*Q.* I notice on the rear of this envelope, a little torn, it is—that is, the front of it is addressed to you, and on the rear, I notice that the return address is "Colonel Lindbergh, Hopewell, New Jersey"? *A.* Yes sir.

*Q.* Is that the way it was when it was received by you? *A.* Yes sir.

*Q.* Now will you take a look at S-22 and see if that is the note that came addressed to you in connection with the envelope and letter? *A.* Yes sir.

*Q.* And in that, as I see it, you were asked to please hand an enclosed letter to Colonel Lindbergh? *A.* Yes sir.

*Q.* Is this the enclosed letter? *A.* Yes sir.

*Q.* And did you give it to Colonel Lindbergh? *A.* Yes sir.

*Q.* Now, the note to you did not contain the symbol, did it? *A.* No sir.

*Q.* But the note which was enclosed and which you were requested to deliver to Colonel Lindbergh did have the symbol? *A.* Yes sir.

*Q.* From the testimony already adduced in this case, I understand that on various occasions Mr Al Reich was in the Condon home too? *A.* Yes sir.

*Q.* Now, his conduct in connection with these negotiations from the time that you got into the case, was that with your consent? *A.* Yes sir.

*Q.* Was he paid for his various services that were rendered at your request and with your consent and at the request and consent of Doctor Condon? *A.* No sir.

Q. Did you, after the money was paid, accompany Colonel Lindbergh, Doctor Condon and Mr Irey in these various airplane trips? *A.* Yes sir.

Q. On both occasions when he went up from Bridgeport or somewhere in that vicinity? *A.* On one day.

Q. On one day? *A.* Several flights on one day.

Q. And then, when the child wasn't found and all of you returned, where did you come to? *A.* I stayed on most of the time at Doctor Condon's.

Q. Stayed on in the hope of getting more news? *A.* Yes sir.

Q. Were you at Doctor Condon's home and did you consent to the insertion then of another advertisement that ran for four days: "Have you crossed me? Better directions. Jafsie"? *A.* Yes sir.

Q. Did better directions come? *A.* No sir.

Q. Did you continue on at Doctor Condon's home in the hope of getting more word until May twelfth? *A.* Yes sir.

Q. And, of course, when the news came that the child's body had been found, you left? *A.* Yes sir.

Q. Did you have anything to do with requesting that the government co-operate in attempting to find this boat Nelly, described in the kidnapers instructions as the place upon which the child was located? *A.* I know that the news was flashed at some time. The exact time I don't know. I think it was done by the federal authorities, representatives of the Internal Revenue Bureau.

Q. The United States government cutters, or whatever it was, didn't find the boat Nelly, did they, so far as you know? *A.* No sir.

Q. On the night of April 2, 1932, being the night when the money was paid, \$50,000, where was Mr Al Reich that night? *A.* He was at Doctor Condon's residence.

Q. Not out of the house? *A.* No sir.

*Gross-examination by MR REILLY:*

Q. Had the police alarm been flashed as far as you know up to the time of your arrival in Hopewell? *A.* Yes sir.

Q. Had the police arrived when you arrived? *A.* Yes sir.

Q. I take it for granted that you saw the ransom note that night? *A.* Yes sir.

Q. Now, Colonel, it was not generally known, was it, that there were some symbols on the bottom of the nursery note—we will call it? *A.* No sir.

Q. Can you tell me, Colonel, when it was that the public first learned that there were any symbols on the nursery note? *A.* No sir, I cannot definitely. There were rumors of it in the press throughout the days of March.

Q. The latter part of March? *A.* I don't know, sir.

Q. To your knowledge had any information been given out with your

consent concerning the symbols prior to the night you heard from Doctor Condon? *A.* No sir.

*Q.* Do you recall, Colonel, a letter being received by Colonel Lindbergh, about the third or fourth of March, with a stamp on it, Williamsburg, New York? *A.* The second kidnap letter, dated the fourth of March, was mailed from Brooklyn.

*Q.* And it bears the date, March 4, Brooklyn, N. Y., Station 2, 9:00 P.M., 1932, and that was prior to the entry of Doctor Condon into this case, wasn't it? *A.* Yes sir.

*Q.* In your contact with Doctor Condon, in the beginning of the contact with him, it is fair to say that you knew nothing about him; is that correct? *A.* Not prior to our meeting, no sir.

*Q.* I assume as a member of the Bar, and of your experience, that you did question in your mind the insertion of his appeal in the Bronx *News*? *A.* Yes sir.

*Q.* It gave you some thought? *A.* It did, yes sir.

*Q.* Is it true, Colonel, that you caused to be written to him, or did you write two letters to him, bearing counterfeit symbols, at any time? *A.* No sir, I did not.

*Q.* Do you know of any letters being written to him—any decoy letters? *A.* No sir, not that I know of.

*Q.* You had many investigators working on this case, didn't you, Colonel? *A.* No sir.

*Q.* Do you recall a gentleman introduced to you through the late President John Grier Hibben, of Princeton University, whose name was Robert B. Edgar? *A.* No sir, I do not recall him.

*Q.* Do you recall two gentlemen interested in this case, as investigators, their names, Mr Thayer or Mr Fogarty? *A.* Yes sir. Mr Thayer is an attorney and Mr Fogarty is now deceased, was an ex-detective of the New York police force, latterly in private practice.

*Q.* And you have no independent recollection of having a conversation with Mr Edgar in Colonel Lindbergh's library, Easter Sunday, April of 1932, have you? *A.* I have no recollection of it.

*Q.* Who delivered the note at Doctor Condon's house on April second, the Saturday night? *A.* I don't know, sir.

*Q.* The doorbell rang. Doctor Condon disappeared from the room and in a short time re-entered the room with the note; is that correct? *A.* No sir. Mrs Hacker was with her father there, and we did not move out of the rear room, wishing to make as little disturbance or commotion in the house as possible.

*Q.* Did Mrs Hacker go to the door with him? *A.* Yes sir.

*Q.* The person who delivered the note was never apprehended, was he? *A.* I understand not, sir.

*Q.* Was there any description given of the person who delivered the note for the ransom money? *A.* Mrs Hacker gave such a description to the police authorities.

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Q. How soon afterwards? *A.* I don't know, sir.

Q. Well, what prevented the person who delivered the note from being taken into custody right there and then? *A.* Nothing.

Q. You would not only have the person, but you would have the note, correct? *A.* That is right, yes sir.

Q. You don't know if it was a man or woman, boy or girl, or what it was? *A.* Not of my personal knowledge.

### *Redirect examination by MR WILENTZ:*

Q. Counsel asked you what there was to prevent the apprehension of the person that brought the note. Was it the desire, the intention or the plan to arrest the person that brought the note? *A.* No sir.

Q. My understanding, then, is that it was the note that you were waiting for, that you wanted, and not the man. *A.* Yes sir.

Q. Is that it? *A.* So far as Colonel Lindbergh was concerned, and so far as his instructions were concerned, they wanted the return of the child at the time and not the person that was getting the money.

Q. And his instructions were followed, so far as you were concerned, and Doctor Condon was concerned? *A.* Yes sir.

### *Re-cross-examination by MR REILLY:*

Q. Didn't you consider it as a lawyer, and not only as the friend of Colonel Lindbergh, but as a member of the Bar of the State of New York, that it was your duty to apprehend any person that had any connection with this case? *A.* Yes sir.

Q. Why didn't you do it that night? *A.* Because I was serving what I thought was a superior duty: to recover the child alive.

Q. But you had the man that delivered the note, and you had the note, didn't you? *A.* Yes sir, but we didn't have the child.

Q. Doctor Condon, you say, always refused to surrender the money unless he received the child? *A.* That was his desire.

Q. But on this particular night, with no one looking at him, but somebody who received it, he handed \$50,000 of the colonel's money, as he says, over a hedge; is that right? *A.* His opposition was overruled.

MR REILLY: I move to strike it out as not responsive. It is the conclusion of a very good lawyer, but it is not responsive to the question.

MR WILENTZ: I think it is responsive, if your honor please.

THE COURT: I decline to strike it out, Mr Reilly.

## MYRA CONDON HACKER

### *Direct examination by MR WILENTZ:*

Q. You are the daughter of Doctor Condon, who was on the stand a moment ago? *A.* Yes sir.

Q. Where do you live? *A.* I live at 1545 Warwick Avenue, West Englewood.

Q. On the day that there was received the sleeping garment, were you in the house? *A.* I was.

Q. Who else was in the house besides yourself? *A.* My father, Colonel Breckinridge and my mother.

Q. And do you recall where the package was delivered or where the envelope was delivered? *A.* According to my recollection, it was in the middle of the morning in the post box.

Q. And who procured it from the post box, as you remember? *A.* My father, I believe.

Q. Was it opened when it was brought in? *A.* No sir.

Q. Did you see it opened? *A.* Yes sir.

Q. Was it opened in your presence and in the presence of Colonel Breckinridge? *A.* Yes sir.

Q. Have you any recollection as to whether there were one or two notes in there? *A.* My best recollection is that there were two notes.

Q. Whatever was in that package, what was done with it, notes, package and all? *A.* It was completely turned over to Colonel Lindbergh when he arrived.

Q. How soon after its arrival did Colonel Lindbergh arrive? *A.* A few hours.

Q. And during all that time Colonel Breckinridge was in the house? *A.* Yes sir.

Q. Now, on April 2, 1932, you were at Doctor Condon's again, at your dad's home? *A.* I was, sir.

Q. And do you remember that the doorbell rang? *A.* Yes sir.

Q. And there was a note delivered? *A.* Yes sir.

Q. Do you know who delivered it? *A.* I don't know his name.

Q. You have never seen his picture? *A.* Not to my knowledge.

Q. And did you give a description of the person to the authorities? *A.* I did, sir.

Q. You were present at the door, as I understand it, when you saw a stranger hand to your dad that note on April 2, 1932, the Saturday when the money was paid? *A.* Yes sir.

Q. What is your best recollection as to the size and height of the man who delivered it? *A.* My best recollection was that he was about five feet six or seven, very slim and very dark.

Q. And you have never seen him or his pictures since? *A.* Not to my knowledge.

*Cross-examination by MR REILLY:*

Q. The man that came to the door with a note that Saturday night, what is your best recollection as to how he was dressed? *A.* Indefinite.

Q. Did you go to the door with anybody? *A.* With my father.

Q. You say that this man that delivered the note was about five feet six? *A.* Or seven, yes.

Q. And his weight was about what? *A.* He was of slight build. I wouldn't attempt to estimate it.

Q. About how old, in his twenties or thirties? *A.* I should say his twenties.

Q. Have a mustache? *A.* I don't think so. Not to my recollection.

Q. Black hair? *A.* Dark hair, as I remember.

Q. Rather a dark complexion? *A.* I should say so.

Q. Either of Italian or, we will say, Jewish type? *A.* I wouldn't care to link up with any nationality.

Q. Was there any characteristic at all about him that looked foreign? *A.* I couldn't say. When it was considerably fresher in my mind I gave it to the Department of Justice.

Q. I ask you to look at this photograph and see whether that wasn't the man that delivered the note? [*Showing to witness.*] *A.* I do not think so.

Q. You wouldn't say it wasn't? *A.* I do not believe it is the man.

Q. Do you recall the kind of a hat he had? Was it a slouch hat? *A.* I am sorry; I don't.

Q. Didn't take very long, then, to deliver the note, did he? *A.* No.

Q. Did he ask for anybody when he rang the bell and the door was opened? *A.* That I don't recall.

Q. Do you recall whether he said anything? *A.* I don't.

Q. Do you recall your father saying anything? *A.* No.

Q. Your father didn't say, "Come in; you are expected; we have been waiting for you," or anything like that? *A.* Not to my knowledge.

#### WILLIAM F. HORN

##### *Direct examination by MR LARGE:*

The witness was a corporal detective in the New Jersey State Police Department. He identified a document as having been written by Bruno Richard Hauptmann, in the 2nd Precinct New York police station. [*The defense demanded and received permission to cross-examine upon the conditions under which the writing was obtained.*]

The witness said the writing was voluntary, but had been taken after continuous questioning for nearly fifteen hours. At the conclusion of the cross-examination Mr Justice Trenchard admitted the document and five similar ones, all of which had been written by the defendant.

#### THOMAS J. RITCHIE

##### *Direct examination by MR LARGE:*

The witness was a sergeant in the New Jersey State Police. He identified seven documents as having been written by Bruno Richard Haupt-

mann on September nineteenth and twentieth at the New York police station.

*Q.* State whether or not they were written voluntarily by the defendant.

*A.* They were written voluntarily. In fact, Hauptmann said, "I would be glad to write because it will get me out of this thing."

*Cross-examination by MR FISHER:*

*Q.* Now, did the prisoner write these voluntarily? *A.* He did.

*Q.* Will you relate your conversation with him immediately leading up to the writing? *A.* Why, I asked him to pick up his pen and write of his own free will what I would repeat to him, which he did voluntarily, and at that time is when he said he would be glad to write so he could get out of this thing.

*Q.* And he didn't offer any objection whatever to writing? *A.* None whatsoever.

*Q.* And he wrote exactly what you told him to write? *A.* Not exactly.

*Q.* Well, what did you tell him for, if he wasn't to write it? *A.* I mean that some of the words on there are not written as I pronounced them to him.

*Q.* I see. You pronounced one thing and he wrote something else. Is that it? *A.* Right.

[*The seven writings were admitted in evidence over defense objections.*]

JAMES J. FINN

*Direct examination by MR LARGE:*

The witness identified a document as written by Bruno Richard Hauptmann under conditions similar to those outlined by preceding witnesses, and the paper was received in evidence.

THOMAS H. SISK

*Direct examination by MR LARGE:*

The witness, a special agent in the Division of Investigation of the United States Department of Justice identified two further documents as having been written by Bruno Richard Hauptmann. His testimony was not conclusive because he had not watched the entire operation of writing.

[*At this point a promissory note and an insurance document signed "Bruno Richard Hauptmann" were received in evidence, with the stipulation that the handwriting was that of the defendant. Nine further exhibits, all of them applications for automobile licenses, conceded to have been signed by the defendant, were also admitted in evidence.*]

## EIGHTH DAY

*Flemington, N. J., January 11, 1935.*

FRANK J. WILSON

*Direct examination by MR WILENTZ:*

**T**HE WITNESS was a special agent in charge of the Intelligence Unit, United States Internal Revenue Service. Under his direction the ransom money was prepared by J. P. Morgan & Company. Each piece of currency was checked and its number recorded. The sheets with the recorded numbers were preserved for use at any later trial. After the ransom had been paid the government printed 250,000 circulars containing the lists of ransom bill numbers, and these were distributed throughout the world.

The witness identified \$14,600 in gold certificates, taken from the defendant's garage, as having been part of the ransom money. He also identified a five-dollar bill, with "Loew's" written on it in ink, as one of the ransom bills.

*Q.* Did you, as agent in charge, cause to be investigated, so far as you could, the money transactions of this defendant, Bruno Richard Hauptmann? *A.* Yes sir.

*Q.* So far as you know, Mr Wilson, since the indictment of Bruno Richard Hauptmann for murder has there been one ransom bill turned up? *A.* No sir.

*Cross-examination by MR FISHER:*

*Q.* Do you mean to say, Mr Wilson, as a positive fact, it is within your knowledge that not a single ransom note has been passed since the apprehension of Hauptmann? *A.* Not that I know of.

*Q.* Will you say that not a ransom bill appeared anywhere in the world since the arrest of Hauptmann? *A.* I don't know what has happened throughout the world.

Objections to a line of questioning designed to develop the fact that at the time of the trial of John Hughes Curtis (for obstructing justice in the kidnaping case) the witness believed a gang had committed the crime were sustained.

The witness related his efforts in tracing ransom bills that turned up, and denied that any were found at any time in Connecticut. He denied, as well, that "approximately three thousand dollars of ransom money was deposited by one Max Schlaug, a florist in New York City."

The sum of \$2980 was deposited, all of it ransom notes, in the Federal Reserve Bank of New York on the day the gold embargo became effective, the witness said, but his department was never able to trace the "J. J. Faulkner" whose name was signed to the deposit slip.

*Q.* You carefully investigated J. J. Faulkner, did you not? *A.* Yes sir.

*Q.* Did you find a J. J. Faulkner alive? *A.* Yes sir, several of them.

*Q.* Did you find any of them dead? *A.* Yes, we found some of them dead.

The witness had been informed that the deposit slip had been given to a handwriting expert to compare with the writing of the defendant.

*Q.* And what were you informed the result was? *A.* That it was not the same writing.

*Q.* That it was not in the handwriting of Bruno Richard Hauptmann? *A.* Yes.

The witness believed that, other than the \$2980 in ransom money passed into the United States treasury, a total of not more than \$1300 had been recorded as being surrendered to the United States treasurer, leaving a total of \$31,000 unreported out of the \$50,000 ransom that was paid.

*Redirect examination by MR WILENTZ:*

The witness said it was probable that some of the ransom money reached the Treasury Department without being detected because of the tremendous amount of gold certificates surrendered in 1933 when President Roosevelt called in all gold.

*Re-cross-examination by MR FISHER:*

Employees of Federal Reserve Banks had been told to watch with great care for the ransom money, "but it was not practical to check all the money coming in."

H. NORMAN SCHWARZKOPF

*Direct examination by MR LARGE:*

The witness was superintendent of the New Jersey State Police. He identified two writings as dictated to the defendant by the New York City police. He testified that the spelling was the defendant's own spelling.

MR FISHER [*on voir dire*]:

Q. Was he represented by counsel at the time the writing was done? *A.*  
No sir.

[*The specimens of handwriting were admitted in evidence.*]

### ALBERT D. OSBORN

*Direct examination by MR LANIGAN:*

The witness was qualified as an examiner of questioned documents. He had been testifying in handwriting cases for thirty years and was the author of numerous books on the subject. He first saw the ransom notes in this case in May 1932. He later examined the writings of more than a hundred possible writers of ransom notes (brought to him by the police) and arrived at the conclusion that the writer of the notes had not been found, up to September 1934.

Q. Have you made a careful comparison and examination of the so-called ransom notes with the conceded writings and the request writings of Bruno Richard Hauptmann? *A.* I have.

Q. Based on your examination and comparison, what is the opinion you have reached? *A.* My opinion is that the ransom notes were all written by the writer of the various papers signed "Richard Hauptmann."

Q. Have you examined these various ransom letters for the special purpose of determining whether or not they were all written by the same writer? *A.* I have.

Q. What is your opinion regarding that matter? *A.* My opinion is that all the ransom letters were written by the same writer.

Q. You have examined the fourteen ransom notes, you have examined the request writings and you have examined the conceded writings, and your opinion is what with respect to them? *A.* My opinion is that the ransom notes were written by the writer of these various writings, proved writings that I have just referred to.

Q. Explain the reasons. *A.* I first examined these writings for the purpose of determining, if possible, whether or not they were all written by the same writer (that is, the ransom notes themselves), and this examination was made in May 1932, when the ransom notes were first submitted to me. I examined them then for the purpose of determining whether they were connected with each other, and I found that they were connected with each other in a large number of ways—seven or eight different ways, a number of these ways outside of the question of handwriting. They were connected with each other in my opinion by the language contained in them, the use of words, spelling, peculiar spelling; by the statement in the latter letters of the amount of the ransom mentioned in the first letter; by the statement in the latter letters relating to the subject

of not reporting to the police; and mainly, and perhaps most positively, the ransom notes were connected with each other by a peculiar and ingenious device that appeared on the lower right-hand corner. I hold in my hand the reproduction of printing, photograph of printing, of various parts of these letters which, in my opinion, indicate that the letters came from the same source. I refer to the language and the statement, the ideas, in the letters. For example, the first one is the letter that was left in the room when the kidnaping occurred, what was referred to and is referred to in the notes themselves, as the ransom note. That letter says: "We warn you for making anyding" (intended for anything) "public or for notify the police"; and then in the lower left-hand corner of that first page are the words: "Indication"—I think the word is "indication"; it is rather illegible—"Indication for all letters are", then the word "singnature", s-i-n-g-n-a-t-u-r-e, and below that the words "and three holes"; and then to the right and in the corner appears this peculiar device which is made by imprinting two overlapping circles with ordinary printer's ink—I mean ordinary writing ink—and I think the impression was made, not by a rubber stamp, but by some instrument which didn't take ink well, so that the impressions are not good. It is a crude device in certain ways. I experimented with the various instruments; I think with the bottom of a bottle or a porcelain or some china cup or something that is simply put upon ink and then the impression made. But the most significant thing about this device is the holes which are referred to on the first letter and referred to in one of the later letters as "specially them three holes." The three holes connect these eleven letters with each other, in my opinion, unmistakably, for this reason; they are punched through the paper, so there is a hole through the paper, not merely a perforation, but a hole, and in my opinion they were all punched from the same model or pattern. A pattern was made or a model, or they were punched one from the other. They were not punched at the same time because the holes are not exactly the same size and not exactly the same shape, but they are in the same relation to each other and in the same relation to the edge of the paper and to the bottom of the paper, so that you can take Letter No. 1, put the corners together and the sides together, hold it up to the light and you can see through all three holes, and you can see through all three holes on all eleven of them. The only difference is, in what is numbered 13 and 14 (they are the last ones) the two holes are about a sixteenth of an inch nearer the bottom of the sheet. But horizontally they are the same distance from the edge, and another circumstance in connection with the holes is that they are not the same distance from each other. The first and second holes are farther apart than the second and third, and they are uniform. So in my opinion it couldn't have been made

excepting from a pattern or one made from another. It would be impossible to make them from a description alone or a mere observation of them, because of this mechanical similarity. The second letter, S-20, the first line of the second letter, "Dear Sir: We have warned you note" (intended for not, it was spelled n-o-t-e) "to make anyding public or for notify the police." The very first sentence is a repetition of the sentence in the first letter, and on that same letter, "singnature" on all letters not only refers to the previous one and this one, but those that might follow, and an arrow which points up to the device. The second page of that same letter says, "Our ransom" (a-u-e-r, our) "was made aus" (a-u-s, out, German) "for \$50,000." That is what the first letter said, \$50,000. This letter says, "Our previous letter,"—practically says "our previous letter said \$50,000", and it did; "but now we have to take another person to it and probable have to keep the baby for a longer time as we expected." The reference to the amount, \$50,000, is the same. Exhibit H, at the lower part of the first page, has merely the word "singnature" at the left, and then the device at the right; and the second page of that same letter—they are single sheets and the writing is on the back—the second page: "Wy" (why, W-y) "Wy did you ingnore our letter which we have left in the room." Two points of connection there: one the peculiar spelling of the word "ingnore", an unnecessary *n* before the *g* exactly as the word "singnature" is written; and also the reference to the first letter which was left in the room.

In the same letter there appears: "and ranson was made out for \$50,000", another reference to the amount that appeared in the first letter, "but now we have to put another lady to it and probable" (intended for "probably", although it is misspelled) "have to hold the baby longer as we expected." The next letter says, "It seems you are afraid if we are the right party and if the boy is all right, Well, you have our singnature. It is always the same as the first one, specially them three holes." The next reference to this: "He knows"—that previous reference was to Colonel Lindbergh—"He knows we are the right party."

This is another letter. "Our singnature is still the same as in the ransom note." Now these ransom notes are connected with each other with many peculiarly spelled words. It can hardly be described as misspelling; they are peculiar combinations of letters. This word "singnature" that appears all the way through, for instance. And another connection appears in the second letter. The first two lines of the second letter are written with great deliberation and very distinctly like the writing in the first letter. The rest of that letter, the second letter, is written somewhat more freely.

Q. What does that indicate to you? A. Well, it indicates the closer connections at the beginning of the second letter with the first let-

ter. The first letter was written with more deliberation than any of the other letters, written somewhat more slowly and with more deliberation, but in my opinion it was written by the same writer. Now, there are some other words, other statements, ideas, contained in these letters which in my opinion tend to connect them with each other and, especially I mean, tend to connect the later letters with each other and with the first letter. The first letter says, "The child is in gut care." That is the letter left in the room. That particular sentence is written with a coarser pen than the rest of the letters, indicating it was written not continuously with the other part of the letter. The next letter says, "Don't be affrait about the baby." These are references to the care of the child which appear in the different letters. "Don't be affrait about the care of the baby. Two lady keeping care of it day and night." "The also" —intended for "they", written t-h-e; that is an error which appears here numerous times, in which the verb is not correctly spelled or the noun is not correctly spelled in some instances, and sometimes it is the verb. Here it is "the" intended for t-h-e-y, although it is rather illegible. ". . . also will feed him according to the diet." The next letter says, "We are interested to send him back in gut (g-u-t) health." Or "got"; it is difficult to tell just exactly what some of these letters are. They are written so peculiarly and so illegibly. The next letter says, "There is no worry about the boy. He is very well and will be feed according to the diet." This, in my opinion—this reference—connects these letters with each other as series. I suppose it is understood what the diet means. The next letter says, "Please tell Mrs Lindbergh not to worry, the baby is well. We only have to give him more food as the diet says." In the next letter it says, "Did you send that little package to Mr Lindbergh. It contains the sleeping suit from the baby." Then, "The baby is well." In the last letter it says, "There is absolute no fear about the child. It is well."

*Q.* Are those correct photographic reproductions of the notes? *A.* They are.

*[Photographs referred to received in evidence and marked State Exhibits S-104 and S-105.]*

Continuing his comparison between the admitted writings of the defendant and the writing of the ransom notes, the witness dismissed the theory that the latter might be an imitation of the former because "it would be an enormous problem to imitate the amount of writing that appears in these ransom notes and imitate it successfully. . . .

"In my opinion the ransom notes are connected with this other writing, with this standard writing, genuine writing of Richard Hauptmann, in all three of these ways: general characteristics, ordinary, usual characteristics, and unusual or rare characteristics. . . . In my opinion the

anonymous letters are all written in a disguised hand, somewhat disguised."

The witness explained that it is customary to ask a subject to write the same matter three times. "The writing is taken away and another sheet is supplied and the same matter dictated. Now, if they differ from each other, it is not the habitual, genuine, honest writing of the writer. And that is exactly what we find in this request writing. In one instance we find it on the same sheet of paper. In my opinion these ransom notes are disguised writings; part of the request writings are disguised writings, and the writer didn't have but one disguise. So that when the request writings were asked for, part of them are written in the style of the ransom notes and part of the request writings are like the writings of the automobile registrations and the promissory note contract."

The handwriting expert said that the characteristics of handwriting were "like the description of an individual" and that handwriting is identified exactly as a man is identified, as an automobile is identified, as a horse is identified—by general description and then by individual marks and scars and characteristics which, "in combination—and this is the most significant part of this matter of comparison, the combination of characteristics—so that it is not reasonable to say that they would actually coincide."

The witness pointed out three "invented, unusual characters in the exhibited writings, the first one an *X*. In my opinion it is an incorrect attempt to make what is an old hand *X* . . . with the beginning stroke like a small *n*, with a loop at the bottom and then a loop at the top, and then the downward stroke touches the upward stroke and it makes an *X*. . . . Now, the error in this letter is in making a loop at the top, then you can't make the second part touch the first, as it should, to make an *X*, and this result we see as shown here in five examples."

The second peculiar characteristic, the witness said, was a peculiar capital *T*, of which that in the ransom notes "could be almost exactly superimposed" on a capital *T* in the Hauptmann writings. The third was the transposition of *g's* and *h's* in the word "lihgt" for "light" and "righgt" for "right."

Out of 391 *t's* in the ransom notes, only three were crossed. In the defendant's own handwriting there were "whole pages with not one crossed *t*. . . . Now, the same peculiar omission in writing which is characteristic is shown in the small *i*. Now the small *i* requires a dot, and in the ransom notes there are 304 small *i's*, seven of them dotted, and the same proportion exists in the standard writings, whole sets of the standard writing with not one *i* dotted in it at all." The witness then called attention to the similar words "singnature" and "ingnore", which he called characteristic.

Among other characteristics the witness declared were common to all the writings were these:

A capital *I* which was "not a copybook form at all."

A peculiar *s* ("a distorted and illegible letter").

The letter *y* ("really a *j* without a dot and without an upward stroke").

Three distinct styles of *f's*, appearing in both sets of writings.

Formation of the letter *d*.

Formation of the letter *w*.

Spelling of the word "money" as "mony."

Peculiar and distorted *a's*.

Peculiar finishing of the letter *h*.

## NINTH DAY

*Flemington, N. J., January 14, 1935.*

**A**LBERT S. OSBORN resumed the witness stand.

*Direct examination by MR LANIGAN: [continued]*

*Q.* Mr Osborn, have you had an opportunity to make a count of the *i* dots and the *t* crossings and the "you's" in the request writings? *A.* I have.

*Q.* Will you report the result of that count? *A.* In the photographs of the request writings, I found that there were 106 small *i*'s and that eight of them were dotted. The word "you"; there are twenty-four words of the word "you" in the photograph specimens, and there was just one that had the beginning part of the *y* in the word "you." And of the *t* crossings there were 196 and there were four —196 *t* crossings that would require a crossing. I didn't count the German forms that were finished at the bottom, but there were 196 that would require a crossing, and there were four crossings.

*Cross-examination by MR REILLY:*

The witness had examined more than one hundred other persons' handwritings in connection with the Lindbergh crime, most of them turned over to him by the New Jersey State Police. He had examined the handwriting of Isidor Fisch.

*Q.* I think you testified last week that from an examination of this device (the "symbol with three holes" at the bottom of the ransom notes) all of the holes were the same distance in from the edge of the paper—from the bottom; is that correct? *A.* Well, practically so, except the last ones. The last ones are a little nearer the bottom. There are just two of them.

*Q.* And in your opinion they were made either with a nail or some rough instrument? *A.* Well, some rough instrument, I think. I couldn't say what.

*Q.* I take it that your testimony is that one person wrote all these ransom notes? *A.* Yes.

*Q.* I now refer you to the letters received by Colonel Breckinridge on March eighth, and call your attention to the note that has no signature and the note that has the signature, and ask you whether

there is, in your opinion, a visible difference? *A.* Oh, there is a little variation, but in my opinion they are substantially the same.

*Q.* Did you notice any difference at all between the note, the ransom note, the nursery note, No. 1, the note to Colonel Lindbergh of March fourth, No. 2, the note to Colonel Breckinridge, No. 3, that group; did you notice any difference in your opinion so far as those notes were concerned and the notes that passed through the hands of Doctor Condon? *A.* No.

*Q.* Now here is one of the Doctor Condon notes. Isn't the phrasing of the letters, the general outline, much clearer than the preceding notes? *A.* I would say that it is clearer than the nursery note, and perhaps a little more freely written than some of the others, but it is essentially the same.

*Q.* Well, is this disguised, in your opinion? *A.* I think they are all disguised, all the ransom notes. . . . That is, they are all disguised to a certain extent; that is, that they are not natural, free writing.

Mr Reilly attempted to show by repeated questions that Mr Osborn had been mistaken in previous cases in which he had testified. Mr Osborn could not recall any cases in which he had been in error.

### HILDEGARDE OLGA ALEXANDER

#### *Direct examination by MR WILENTZ:*

The witness had lived in the Bronx all her life and knew Dr Condon. Sometime during the month of March, at about six-fifteen or six-thirty o'clock in the evening she saw Dr Condon in front of the telegraph office in the waiting room of the New York Central station at Fordham. She could not definitely fix the date.

*Q.* Now, who else was in that station besides you and Doctor Condon? *A.* I saw a man looking at Doctor Condon.

*Q.* How far away from Doctor Condon was this man? *A.* About where I am sitting to where you are sitting, probably just a little bit further. [*About ten to fifteen feet.*]

*Q.* And will you tell me again what you saw Doctor Condon do in the room? *A.* Doctor Condon was in front of the telegraph office and he seemed to be having an argument.

*Q.* And what was the other man doing that you observed? *A.* Watching him.

*Q.* Now the man to whom you refer and whom you saw in the station that night, did you see him again, madam? *A.* Yes.

*Q.* Where? *A.* He was walking at Fordham Road and Webster Avenue . . . and he was turning the bend.

*Q.* Who was the man you saw in that station watching Doctor Condon on this night in March and whom you saw a few nights after-

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wards walking down Fordham Road? *A.* I say the man was Bruno Richard Hauptmann.

### *Cross-examination by MR REILLY:*

The witness said she was a clothing model. Mr Reilly attempted to discredit her knowledge of the Bronx and of the hours at which the railroad station in question was open. He carried her, repetitiously, over various routes by which she might have returned to her home after work, and elicited the fact that the reason she stopped at the station to telephone her mother was because she had an engagement to take dinner with a young man "at a Chinese restaurant."

*Q.* How long do you know Doctor Condon? *A.* Since 1923.

*Q.* Where did you meet him? *A.* In a theater.

*Q.* Who introduced you? *A.* The manager of the theater.

*Q.* What were you doing in the theater? *A.* I was cashier in the theater.

*Q.* And was Doctor Condon a frequent visitor? *A.* He was a patron.

*Q.* And why should the manager of the theater introduce you, his cashier, to Doctor Condon? *A.* Because the manager conversed with Doctor Condon very, very often. There were never crowds that came into the theater during the afternoons and the manager knew I was going to high school at the time, mornings, while I worked in the afternoons. And he also knew that Doctor Condon was connected either with the Board of Education or was a principal, and he thought it was nice to let Doctor Condon know that I was going to school while I was working.

Counsel discussed the position in which the witness had been standing when she saw the defendant "watching" Dr Condon.

*Q.* And Doctor Condon had his back to you, did he not? *A.* He was directly in profile to me.

*[After a brief redirect examination the witness was excused.]*

## ELBRIDGE W. STEIN

### *Direct examination by MR LANIGAN:*

The witness qualified as a handwriting expert.

*Q.* I show you the so-called ransom notes and ask you if you have made an examination of them? *A.* I have.

*Q.* I show you the conceded writings of Bruno Richard Hauptmann and ask you if you have made an examination of those? *A.* Yes.

*Q.* As a result of your comparison and examination, have you reached an opinion concerning them? *A.* Yes.

*Q.* What is that opinion? *A.* My opinion is that the writer who wrote the Bruno Richard Hauptmann writings, that is, the request and conceded writings, also wrote the ransom letters.

The witness's conclusions were drawn largely from the same sources that caused the witness Osborn (Albert S.) to reason that the ransom notes were written by the defendant.

*Cross-examination by MR FISHER:*

The cross-examiner placed great emphasis upon the fact that while the writer of the ransom notes had spelled small words incorrectly, he had spelled such words as "information", "circumstance" and "absolute" correctly. Mr Fisher asked the witness whether the fact that words like "be" and "not" were incorrectly spelled had any significance to him, suggesting that "perhaps the writer of the ransom notes was purposely misspelling small words." The witness replied, "I don't think so." Mr Fisher did not press the question further.

Mr Fisher was subjected to a rebuke by the Court for asking irrelevant questions, but Mr Justice Trenchard also ordered stricken from the record certain replies made by the witness. The antagonism between counsel and the State's witness was apparent.

The witness admitted that there was little similarity between the figures (numbers) concededly written by the defendant, and those on his automobile license applications. The defense made much of the fact that these figures had not been included in the charts prepared for the State.

## TENTH DAY

*Flemington, N. J., January 15, 1935.*

JOHN F. TYRRELL

**T**HE WITNESS QUALIFIED as a handwriting expert, and his qualifications were conceded by defense. He had prepared numerous illustrations of similarities between the conceded writings of Bruno Richard Hauptmann and the ransom notes.

*Q.* As the result of your examination have you reached an opinion regarding them (the writings)? *A.* Yes.

*Q.* What is that opinion? *A.* That the writers are identical. That they were all written by the one writer.

The witness said that the first note, "the cradle note", is "somewhat of an extravagant disguise." He pointed to inconsistencies in numerous letters and said that, since there was a lapse of time between the writing of the first note and the last note, and "obviously the writer of the second note did not have the first note before him when the second note was written", certain peculiarities appeared in all the writings that marked them as by the same author.

### *Cross-examination by MR POPE:*

Mr Pope attempted to have the witness say that there was no similarity in the *d's*, *t's* and *s's* in the compared writings, but became involved in an argument with the witness in which the Court finally took a part, saying:

"Of course there seems to be more or less contention here that the witness ought to be, within reasonable limits, permitted to answer his question and make reasonable explanation about it. Now, of course, I understand the rule to be, and counsel, I think, will agree with me, that if in attempting to amplify his question within a limit, his answer becomes irresponsible, the thing to do then is to move to strike out the irresponsible part; otherwise, I do not see how we are going to get along very well in the examination of handwriting experts. Now, I suggest that counsel endeavor to work along those lines."

Throughout the remainder of the cross-examination, Mr Pope attempted to show certain dissimilarities between the *y's* and *d's* of the ransom notes and those of the conceded writings of the defendant. He succeeded in exasperating the witness, but could not force him to admit that his premise was incorrect.

The cross-examiner produced several letters addressed or directed to "New-York", with the hyphen between the two words. A colloquy ensued in which the cross-examiner brought up the question of "misplaced letters", such as the *g* in "light" and "right."

Q. So that if these letters were written by a man of education, or a man of high-school education, or a good grammar-school education, and these letters appeared there misplaced in that way, that would be an additional indication of camouflage, wouldn't it? *A.* It would depend on whether he was writing in his mother tongue and in the tongue in which he was educated.

Q. What do you mean by that? *A.* Why, he might be able to spell the word perfectly correctly in his mother tongue and incorrectly in the language of his adoption.

Q. But these ransom notes are all written in English, aren't they, misspelled English some of them? *A.* Yes.

Q. There is no attempt to write any of the words in any of the ransom notes that you discovered in the German mother tongue, is there? *A.* Yes.

Q. What word? *A.* "Uns."

Q. How do you spell that? *A.* U-n-s, meaning "us." There is another word—

Q. Well, that might be disguised, too, mightn't it?

MR WILENTZ: Just a minute.

MR POPE: He has answered my question.

MR WILENTZ: He says there is another word.

MR POPE:

Q. All right. Is there another word? *A.* "Best danks", the German expression, "best danks."

Q. And what did that mean, in that instance? *A.* Thank you.

The cross-examiner attempted to show that the expression "in hand", used in the phrase "after we have the money in hand", indicated that it was written by "a hand of business experience." The witness argued that it was only "equivalent to the German 'im hant'."

The remainder of the cross-examination was given over to an endeavor to prove that the various "Germanisms" used in the ransom notes were attempts at disguise rather than genuine ignorance of the proper form, by the writer, and an attempt to discredit the witness's knowledge and experience by reciting former cases in which seeming errors in handwriting identification had been made.

### HERBERT J. WALTER

#### *Direct examination by Mr LANIGAN:*

The witness was shown the ransom notes, the dictated writings and the conceded writings of Bruno Richard Hauptmann, after qualification

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as an expert on disputed documents. In his case Mr Rosecrans, for the defense, admitted the witness's qualifications without reserve.

Q. Have you examined the request writings, the genuine writings and the ransom notes? *A.* I have.

Q. Have you reached a conclusion concerning them? *A.* I have.

Q. What is your opinion? *A.* In my opinion the same person who wrote the request writings and conceded writings, those signed "Bruno Richard Hauptmann", is the same person who wrote all the ransom notes.

The witness's reasoning followed the same line as that taken by the witness, Albert S. Osborn, particularly as it concerned the coincidence of undotted *i*'s and uncrossed *t*'s. He also placed stress upon the transposition of letters in words such as "right" and "light."

### *Cross-examination by MR ROSECRANS:*

[EDITOR'S NOTE: *At this point there appears to have been a difference of opinion among counsel for the defense. Mr Pope's theory was that by tedious cross-examination of so-called experts, the jury would become so exhausted and annoyed by all experts that their testimony would become at least valueless.*]

Mr Rosecrans copied an *o*, turning the chart upside down and writing the character through draftsmanship. His demonstration was intended to convince the jury that any person could have taken the original ransom note and copied it (upside down) with a certain degree of exactitude.

The handwriting testimony was interrupted at this point to bring to the stand:

## MORTON CLEMMER MAISH

### *Direct examination by MR WILENTZ:*

The witness was the manufacturer of "Baby Alice Thumb Guards", of the type used by the Lindberghs, two of which were on the hands of the child at the time of the kidnaping.

Mr Maish testified that the thumb guard was made of Monel metal, which was not supposed to rust, even though exposed to the elements.

### *Cross-examination by MR REILLY:*

Q. What test did you make personally regarding rust (on Monel metal)? *A.* Personally regarding rust, the first sample of Monel wire I ever obtained I made a ring to put on my finger.

The witness never exposed Monel metal to "the elements" in New Jersey and could not say with scientific knowledge what would happen to this metal if thus exposed.

## ELEVENTH DAY

*Flemington, N. J., January 16, 1935.*

HARRY M. CASSIDY

*Direct examination by MR LANIGAN:*

**T**HE WITNESS QUALIFIED as an expert examiner of disputed documents for the Chesapeake and Ohio Railroad Company.

*Q.* If Bruno Richard Hauptmann wrote the request writings and the genuine writings, your opinion of the writer of the ransom notes is whom? *A.* If Mr Hauptmann wrote those request writings and standard writing, I feel compelled to say that he wrote those ransom notes.

*Q.* Will you briefly give me one or two of your illustrations? *A.* There won't be a thing here that I can show that hasn't already been shown. I have been in the courtroom part of the time, and my evidence has been shot to pieces. It has been absorbed.

*Cross-examination by MR FISHER:*

The cross-examination was directed at the question whether the misspelled words were dictated as written, or whether they were misspelled through the prisoner's ignorance. Mr Cassidy admitted he did not see the "request" writing dictated.

*Q.* You weren't present when the test or request writings were written, were you? *A.* I wasn't present when Washington crossed the Delaware, but I've a pretty good idea he got over to the Jersey side. *[Laughter.]*

**THE COURT:** Now we have had quite enough confusion. The people must remain quiet if they are to remain here.

WILLIAM T. SOUDER

*Direct examination by MR LANIGAN:*

The witness qualified as an examiner of disputed documents. He was a member of the scientific staff of the United States Bureau of Standards, and chief of the identification laboratory. He was first consulted in the

Lindbergh case in April 1932 and examined the ransom notes to determine if they were all written by the same individual. Later he was shown the conceded and "request" writings of Bruno Richard Hauptmann, and he agreed with previous witnesses that they were all written by the same person and that that person was the prisoner. Dr Souder presented several charts to prove his contention.

*Cross-examination by MR POPE:*

The cross-examination began with questions into the preparation for a career as a "handwriting expert", and resulted in an altercation between the Court and Mr Pope. The witness said that while there were some "discrepancies" between the ransom notes and the conceded writings, there were none that could not be reconciled. He admitted that several *d*'s were dissimilar—in fact that there were three types of *d* which were used in various portions of the disputed writings.

Mr Pope again exasperated Justice Trenchard by side remarks, which were stricken from the record with these words:

THE COURT: Now the witness may complete his answer. I think the witness was attempting to answer one of Mr Pope's questions. Let him answer. If Mr Pope doesn't like it, we will have to deal with any observation that Mr Pope has to make.

ALBERT D. OSBORN

*Direct examination by MR LANIGAN:*

The witness (son of Albert S. Osborn, but not associated with him in any direct partnership) was qualified as a handwriting expert. He had examined the three sets of documents.

*Q.* Based upon your examination of the genuine writings of Hauptmann, the request writings . . . and the ransom notes, have you reached an opinion as to the identity of the writer? *A.* I have.

*Q.* Please state it. *A.* In my judgment the writer of these standard and other writings—Bruno Richard Hauptmann—wrote all the ransom notes.

The witness believed that when the prisoner (if he wrote it) printed the name and address of Dr Condon on the wrapper containing the baby's sleeping suit, he was "not on his guard" and that he "let down his disguise." His most striking observation was made in the following response to a question concerning an explanation for one of his illustrations:

*A.* This matter appearing in Exhibit S-160 I made up in 1932 for the purpose of using as an example for request writing by suspected writers of ransom notes. I didn't make it up as a literary gem in any sense of the world at all. I made it up to include certain words,

and common words, that appear in the ransom notes. This particular piece of writing, standing by itself, is strong indication of guilt, I think, because it is quite evident that the writer made a strenuous effort at disguise in the first five lines [*of the request writings*] and then suddenly dropped his disguise and wrote naturally. When this specimen was written [*again the request writings*] it was two and a half years after the ransom notes had been written. The ransom notes were disguised throughout, in my judgment, and the first part of this specimen was disguised, and I believe that the writer of this specimen had only one disguise, and the first five lines here are distinctly like the writing in many ways in the ransom notes and it shows that the same hand that wrote this specimen also wrote the ransom notes. You will probably recognize many words in here that have been used in previous testimony. I don't need to point them out. Naturally, in making this [*test paragraph*] out, I put the word "where" in to see how the suspected writer would spell it. In the first line, "we were not near Smith Hall where the robbery took place", of course this writer wrote it as in the ransom notes, w-e-r-e. In the second line, I put the word "our." . . . It is written in the ransom notes o-u-e-r, and when this suspected writer wrote it he also wrote it o-u-e-r.

Among other mistakes, either of spelling or chirography, were these, the witness said:

"Latter" for "later", "anyding" for "anything", "someding" for "something", and various methods of forming letters such as the *N* in "New York", and the hyphenated style of writing those two words.

*Cross-examination by MR FISHER:*

Mr Fisher questioned the witness as to his qualifications and forced him to admit that to become a handwriting expert no prescribed course of study was necessary. The witness admitted that he had adjoining offices with his father (Albert S. Osborn) but insisted that he and his father had not "gone over" their respective exhibits before testifying. He had arrived at his conclusions independently of any other person. Mr Fisher brought before the Court the fact that hyphenation of many names or cities or counties is a common custom among foreign-educated persons.

*Q.* Well, what would you suggest as the proper matter to dictate to a suspected person who is going to write? *A.* Well, I think many times the worst thing that could be dictated to him is one of the actual letters, especially if it has been in all the newspapers as the last two [*ransom notes*] were.

The witness admitted that he did not know "of his own knowledge" whether any words were deliberately misspelled to Hauptmann by the police who made the test.

## CLARK SELLERS

*Direct examination by MR LANIGAN:*

The witness qualified as a handwriting expert and corroborated previous witnesses as to their expressed beliefs that Bruno Richard Hauptmann was the author not only of all the ransom notes, but of all other documents associated with the case.

THE WITNESS: Of course, the identifying characteristics of handwriting are the same as they are in a person or an automobile or a fingerprint, composed of the individualities, and of course if people wrote a perfect handwriting, we would all write alike. But the extent to which each of us varies from a copybook or a standard of perfection, to that extent our handwriting becomes individual. . . . And this handwriting of Mr Hauptmann and his handwriting in these anonymous documents abound in variations and differences from the copybook standard of writing to such an extent that very often in the handwriting of Mr Hauptmann, as the letter [t] stands alone, I am frequently unable to read the letter. . . .

*Cross-examination by MR POPE:*

Mr Pope attempted to show that the identification of handwriting, like that of "faces", was merely "a matter of common observation." The witness said that he had taken nine separate letters from the ransom notes and constructed them into the word "Hauptmann", which matched exactly the signature of Hauptmann on his application for an automobile license. He had also made the same test with other Germans, whose writing matched in some particulars, but varied widely in others.

## TWELFTH DAY

*Flemington, N. J., January 17, 1935.*

WILLIAM J. ALLEN

*Direct examination by MR PEACOCK:*

**T**HE WITNESS was on the Mount Rose road, driving a truck, on May 12, 1932, when he went into the woods "about thirty yards", to answer a call of nature. He discovered the half-buried body of a child and told his companion, Orville Wilson, about what he had seen. He drove to Hopewell and saw Charles Williamson, an officer, to whom he reported his discovery.

*Cross-examination by MR REILLY:*

Allen described the position in which he found the body lying, and said that from the place in the road from which he went into the thicket the house of Colonel Lindbergh was visible "straight ahead." The body was lying in a hollow that "looked" as though it had been scooped out. It was lying on its face. The hole did not look as though it had been freshly dug. The land on the other side of the road, he said, belonged to "a Catholic home—a kind of hospital for children that ain't got no home."

ORVILLE WILSON

*Direct examination by MR PEACOCK:*

The witness corroborated the previous witness's testimony concerning the finding of the body, which he said was "laid into a little trench, I would call it." He saw some pieces of clothing on the body, perhaps a little shirt.

*Cross-examination by MR FISHER:*

The adjoining land, the witness said, was owned by St Michael's Orphanage. The body was found in Mercer County.

*Redirect examination by MR PEACOCK:*

The Catholic home was on the opposite side of the road from where the body was found.

## ANDREW ZAPOLSKY

*Direct examination by MR PEACOCK:*

The witness, a member of the New Jersey State Police, was ordered to go to the Mount Rose-Hopewell road, on May 12, 1932, upon word that a child's body had been discovered there. The body was lying, face down, in a shallow grave. He turned the body over in the presence of Officer Fitzgerald, of the Jersey City Detective Department. He had with him a picture of Colonel Lindbergh's stolen child.

*Q.* Comparing the picture with the body, who was that child? *A.* Colonel Lindbergh's child.

The place in which the body was found was approximately five and a half to six miles from the Lindbergh property.

*Cross-examination by MR FISHER:*

The body was lying face down when the witness arrived at the scene. He turned the body over. Mr Fisher showed him a photograph showing the body lying face down. The witness could not say when the photograph was taken, but insisted he had turned the body face up as soon as he arrived. He was the first officer at the scene.

[NOTE: *This testimony seemed to be in contradiction to that of Allen, but the witness insisted he was correct in his remembrance of the occurrence.*]

*Q.* And you say that the body was in such condition that you could recognize it from the photograph of a living child; is that correct? *A.* Yes, the features were there.

*Q.* Was there anything found around the body, by way of instruments or tools? *A.* Not that I recall, not at that time.

*Q.* As a matter of fact, wasn't there a chisel found there? *A.* I don't know. I don't think so.

## HARRY W. WALSH

*Direct examination by MR PEACOCK:*

The witness was a Jersey City police officer. On May 12, 1932, he went to Mount Rose Hill to view a body. After observing conditions at the scene he returned to the Lindbergh home to get a piece of material. He returned to the scene of the discovery of the child's body and matched the material from the Lindbergh home with a garment found on the body.

*Q.* How did you match it? *A.* With a very fine scalloped, embroidered edge, which is identical with the edge on this. [State's Exhibit 13—the child's shirt.]

While attempting to lift the child's body from the ground with a stick the stick penetrated the skull by accident, making a little hole in it. The body was badly decomposed. The hole was about the size of a lead pencil. The witness cut the clothing from the body to retain as evidence. In addition to State's Exhibit 13 he took away a "similar sleeveless shirt", State's Exhibit 14. The clothing, which was rain-soaked, was taken back to the Lindbergh home and turned over to Colonel Schwarzkopf (superintendent of the New Jersey State Police).

In the depression or excavation in which the body had rested the witness found a quantity of blond hair, about five inches in length. The hair was also turned over to Colonel Schwarzkopf.

*Cross-examination by MR FISHER:*

Q. How did this depression seem to have been made, I mean by that, did it look as though it had been dug out by hand or were there signs of instruments being used? *A.* I don't know. It gave me the impression that the child had been laying in it. I couldn't tell you whether it was dug out or whether it was caused by nature, or whether or how it was made.

Q. Now did you report this matter of making a hole in the baby's head with a stick to the county physician, Doctor Mitchell, who made the examination of the baby's body? *A.* I didn't have any occasion to make a report to the county physician.

The officer made no report of the occurrence to Coroner Swayze, but said he did report it to his superior officer, Colonel Schwarzkopf.

Q. Did you make a survey of the scene? *A.* Immediately surrounding the body, yes.

Q. Did you find anything there at all? *A.* I found a sack.

Q. What kind, burlap? *A.* Burlap bag.

Q. What about a newspaper, bearing the date March first? *A.* No sir.

Q. Did you see a shovel there that day? *A.* No sir.

The witness was questioned about the location of St Michael's Orphanage. He had never noticed the institution. Regarding the possibility of identifying sleeping garments "in common use", he admitted it was "altogether possible" that such garments might be on sale in "a thousand department stores in America."

WALTER H. SWAYZE

*Direct examination by MR PEACOCK:*

The witness was Mercer County coroner in May 1932. As a result of information from state troopers he went to a certain part of the woods near Hopewell on May twelfth, and there saw the body that had been

discovered by the witness Allen. He removed the body to the county morgue at Trenton. The body was identified, in his presence, by Colonel Lindbergh and Betty Gow.

A death certificate of Charles A. Lindbergh, Jr certified to the department of health of New Jersey and signed by the coroner, was identified by the witness and was admitted in evidence over vigorous objection by the defense.

*Cross-examination by MR REILLY:*

The witness admitted he was an undertaker, not a physician, and that he signed the death certificate upon information furnished to him by someone else.

DR CHARLES H. MITCHELL

*Direct examination by MR WILENTZ:*

Q. In your capacity as county physician of Mercer County, were you called to perform an autopsy upon the body of a child, on May the twelfth or thirteenth, 1932? *A.* Yes sir.

Q. When you saw the remains of this child, what have you to say as to whether or not it was recognizable? *A.* The facial expression was quite good on this child. The facial muscles had not deteriorated, although the body generally was in a bad state of decomposition.

Q. Have you seen pictures of the Lindbergh child? *A.* For that matter, we had a picture of the Lindbergh child produced at the morgue that evening, and I made a comparison, the best I could, between the picture and the facial expression of the child, and I was very much impressed with the fact that it was the same child.

Q. How many autopsies would you say you have performed in your experience? *A.* Oh, probably a thousand.

Q. As the result of your examination, as the result of your autopsy, can you tell us what caused the death of this child? *A.* There was no question as to the cause of death. The child died of a fractured skull.

MR REILLY: I move to strike that out: "There was no question as to the cause of death." I ask that he answer the question.

*A.* The child died of a fractured skull.

Q. Can you tell us whether or not that fracture was the result of external violence? *A.* It had every indication of it, in my estimation, from my experience.

Q. What was the nature of this fracture with reference to whether or not it was extensive or not? *A.* Quite extensive. The fracture extended from a point about an inch and a half posterior to the left here; it extended forward—well, probably three to four inches; it extended upward to one of the fontanelles; it extended backward

around the back of the head. In other words, it was a very extensive fracture.

Q. Will you give us your opinion, Doctor, based upon your experience, the experience which you have related, and the experience that you have not related, as to the time of death as related to the fracture.

MR POPE: We object to that question, if your honor please. Manifestly, it is not possible for this witness to express any such opinion as that, for this reason: it does not appear yet that any of the vital organs of this child were there, that any other part, any of the organs which might enter into its death were present or were examined by this physician, that he had any other means of determining whether the death was caused by the fracture or by some other cause, and it is perfectly apparent that a fracture of the skull might be caused even long after the death of the child; so that at most, it can be nothing more than a guess on the part of the physician.

THE COURT: Well, he saw this fracture. He says it was a very extensive fracture. He is describing it, even describing the directions in which the fracture spread. Now, is it possible that an experienced physician is not permitted to tell what relation that fracture had to the cause of death?

MR POPE: No. That isn't possible if this body was not in a condition to determine whether there were any other causes of death. He might express an opinion, sir, quite properly, that if there were no other causes contributing to the death of the child, that this fracture would have been sufficient to have caused it. But beyond that it seems to us that he certainly cannot go.

THE COURT: Well, I think that the physician may express an opinion upon that topic. Of course, it is all subject to your cross-examination. The witness may answer the question.

THE WITNESS: May I hear the question again, please?

MR WILENTZ:

Q. I will repeat it, if you don't mind. Will you please tell us, if you can, your opinion as to the relationship between the fractures that you have just described and the time of death? A. I would say death in this case occurred either instantaneous or within a very few minutes following the actual occurring.

Q. There were some parts of this body missing when you performed this autopsy, were there not? A. Quite a lot of them, yes sir.

Q. Did that prevent you from ascertaining what in your judgment was the cause of death? A. Not by any means. I come to my conclusions as to the fracture occurring during life by virtue of the fact that on the inner wall of the skull at the point of fracture there was still the remains of a blood clot. That blood clot could not come there if the child was dead when the fracture occurred. That frac-

ture occurred on a living child. It bled. The clot was still there, or part of it. That indicated in my mind the blow was struck or the damage done, however it happened—I can't say—but it was done prior to the death of the child or at least some time during its life. Then my answer to the other question—to the effect that I think it occurred immediately—is proven by the extent of this fracture. It was so great, covered such an area, in my estimation, from my experience, that proved conclusively it was instantaneous or almost so.

*Cross-examination by MR REILLY:*

Q. Did you know that the child was suffering from congestion of the lungs and cold? *A.* No sir.

Q. You didn't know that? *A.* I did not.

Q. You made no effort to determine in your autopsy any cause of death from choking, did you? *A.* We examined very carefully by opening the mouth, putting the finger down the throat, also opening the chest, looking at the various organs that were left—very few of them left—examined the teeth, examined the tongue, tried to make as careful examination under the conditions that we had to work on as it was possible to do.

Q. How long, in your opinion, would it take for a child, dressed as the body of this child was dressed, during the month of March 1932, exposed to the elements, to die of exposure? *A.* Well, just what temperature are you speaking about?

Q. Average temperature. *A.* Well, say an average temperature of 32. I'd say a child of that age would be very apt to die of exposure within eighteen to twenty hours.

Q. Did you see this hole in the skull? *A.* Yes sir.

Q. Did you not determine the cause of death the first night to be a bullet hole, until you found out a policeman had accidentally poked a stick in there? *A.* I never determined the cause of death as a bullet wound at any time, anywhere; I made the statement, in order to describe the hole, that it was a rounded, irregular hole, had the appearance of a bullet hole. That is the statement, but that was merely a descriptive statement to give some thought as to the nature and the shape of a hole. I couldn't very well say "a poker or an ice pick" and describe that, because bullet holes of the head are more common and would be more descriptive than the other statement.

Q. An hour and a half after you looked at the body you determined the cause of death? *A.* I certainly did.

Q. Where was this blood clot? Point it out on your own head, please. *A.* About an inch and a half posterior—this is inside the skull, not outside.

Q. Now, I want to know whether or not you photographed the blood clot? *A.* We did not. My memory still holds to me, just as I saw it on that occasion.

## STUART W. CRAGIN

*Direct examination by Mr HAUCK:*

The witness, an employee of J. P. Morgan & Company, assisted in preparing the original package of \$50,000 for Colonel Lindbergh, to be used for ransom. There was no cross-examination. The witness was corroborated by:

LONGSTREET HINTON  
STEPHEN C. REYNOLDS  
WILLIAM F. WILKINSON  
FRANCIS D. BARTOW  
HIRAM E. MANVILLE, JR

THOMAS TRING  
DANIEL R. BOWEN  
WILLIAM ECHTERMAUER  
JOHN HELMICH

## JOHN JOSEPH LYONS

*Direct examination by Mr WILENTZ:*

Q. And where did you work in the year 1934? *A.* For Warner-Quinlan, 127th Street and Lexington Avenue.

Q. Now, particularly in the month of September 1934, were you working for that concern? *A.* Yes sir.

Q. Did you see Bruno Richard Hauptmann sometime in 1934? *A.* Yes.

Q. When did you see him? *A.* Ten o'clock in the morning, September fifteenth.

Q. And what was the occasion? *A.* A dark Dodge sedan pulled in on the station and pulled to an ethyl pump. Lyle grabbed the hose.

Q. Mr Llye was the manager? *A.* Yes sir.

Q. Who else worked there besides you and Lyle? *A.* Just the two of us.

Q. What did he do? *A.* He served him five gallons of gas.

Q. Mr Hauptmann? *A.* Yes.

Q. Did he get money for five gallons of gas? *A.* Yes sir.

Q. What did he get? *A.* A ten-dollar gold certificate.

Q. Did you hear any conversation between Mr Lyle and Mr Hauptmann, the defendant?

MR POPE: We object to it, your honor please. We insist that this evidence has a tendency to prove, perhaps the commission of another crime, that it is entirely too remote, that it has not yet been connected with the kidnaping, nor is there any evidence as yet in this case to connect the defendant now on trial, either with the kidnaping or with the money or the crime that is charged against him.

THE COURT: Well, I am inclined to think, even without hearing from the attorney general that, as the case stands, that testimony is proper.

MR WILENTZ:

Q. Answer the question, sir. *A.* Lyle asked Mr Hauptmann if—he says, "You don't see many more of them."

Q. Who said that: "You don't see many more of them"? *A.* Lyle.

Q. What did Hauptmann say? *A.* He says, "I only got a hundred more left."

Q. What then happened? *A.* Lyle gave him the change and Hauptmann got in the car and went away. Two of us walked away, and walked in the office and Lyle wrote the license-plate number down.

Q. Wrote the license-plate number down on what? *A.* On the ten-dollar gold certificate.

Q. Now, take a look at this gold certificate and tell me—with some numbers in pencil on there—and tell me whether that is the gold certificate and whether that is the paper upon which Lyle wrote that number [*showing to the witness*]? *A.* That is the bill.

Q. Is that the bill he got from Bruno Richard Hauptmann, the defendant in this case? *A.* Yes sir.

MR WILENTZ: I offer it in evidence.

MR POPE: We object to the introduction of the bill in evidence for several reasons. In the first place, it is in no way connected with the crime now charged against this defendant. Bruno Richard Hauptmann is in no way connected with the crime now charged against him. It has a tendency to prove the commission of another crime, which is not within the category of exceptions where proof of that kind may be introduced, such as for the purpose of proving motive, identity and so forth; the exceptions are very well known to the Court. We further object to it upon the ground that there is pending in the courts of New York against this defendant an indictment for extortion. We also object to it because it is remote, and it is not calculated to prove the crime laid in this indictment against this defendant. We object to it further because it is incompetent, irrelevant and immaterial.

MR WILENTZ: If your honor please, before your honor rules, may I be permitted a word in answer?

THE COURT: Yes.

MR WILENTZ: And the purpose of the answer, if your honor please, is not that we feel it necessary on this question, but I cannot permit, on the part of the State, to have counsel make a summation speech of that kind, and therefore I want to say that it is our belief as against his that we have already proven that this defendant is guilty of the crime charged in this indictment: murder. That is our contention. The specific question, however, as to this bill, is similar to the question just a moment ago ruled upon by your

honor, and if the other were admissible, then this certainly is admissible.

THE COURT: I am inclined to think, Mr Pope, that the bill should be received in evidence, and it will be marked.

[*The ten-dollar bill was received in evidence and marked State's Exhibit S-168*]

The witness said he took the bill to the Corn Exchange Bank at 125th Street and Park Avenue, and that he exchanged it for two five-dollar bills. The occasion of his going to the bank was that he was to make a deposit for the company.

*Cross-examination by MR REILLY:*

Q. And then you put in a claim for the reward, didn't you? A. Yes sir.

MIRAN JOHN OZMEC

*Direct examination by MR WILENTZ:*

The witness was a teller in the Corn Exchange Bank in September 1934. He received the ten-dollar bill from the previous witness and gave it, with other deposits of gold certificates, to the head teller, on the night of September fifteenth.

WILLIAM R. STRONG

*Direct examination by MR WILENTZ:*

The witness was teller at the Corn Exchange Bank. He identified the ten-dollar bill by number (73976634) as the one he found in the bank in September 1934, and checked it against numbers of the Lindbergh ransom bills furnished to banks by the Department of Justice. He discovered that the number conformed to one of the ransom bill numbers and notified his superiors.

*Cross-examination by MR FISHER:*

Q. Did you notice anything else about the bill except that it had the ransom numbers? A. No sir.

Q. That is all you noticed on the bill at the time? A. Yes.

JOHN JOSEPH LYONS

The witness was recalled to say that the defendant was not one of his regular customers and that the only time he ever saw him was the day he gave him the ten-dollar bill.

## WILLIAM F. SEERY

*Direct examination by MR WILENTZ:*

The witness was a special agent for the Division of Investigation, United States Department of Justice. Since March 1933 he had been engaged in checking Lindbergh ransom bills. He questioned employees of the Corn Exchange Bank upon their discovery of the ten-dollar ransom note, and examined it, together with Corporal Horn of the New Jersey State Police. Corporal Horn discovered an automobile license number written on the back of the bill; Lieutenant Finn then called the License Bureau and obtained a description of the owner of the automobile whose number was on the bill. A check of gasoline stations brought them to the Warner-Quinlan station, where the officers talked with John Joseph Lyons and "a man by the name of Lyle."

Q. And as the result of that talk between you people and Lyons and Lyle, and the bill that you had, what did you do? A. We questioned them, we got a description—

Q. Do you remember the description? A. I remember that the description was practically identical with the description Condon had previously furnished us as to the man that passed the money.

MR REILLY: I move to strike that out as not responsive.

THE COURT: It may be stricken.

MR WILENTZ:

Q. At any rate, you got a description and did you later talk to this defendant, Bruno Richard Hauptmann, with reference to this bill and to that gasoline station? A. The morning we arrested Hauptmann I talked with him.

Q. What did he have to say with reference to the gasoline station and this particular exhibit, this ten-dollar bill? A. He said he had tendered a ten-dollar gold certificate in payment for gasoline at the Warner-Quinlan station, 127th and Lexington.

Q. When? A. He thought the previous Saturday.

Q. Now, on that very day that you got the call from this bank and got this bill, were you checking another gold bill A. Checking two.

Q. Tell us, did you get two gold bills that day? A. We did; at the Irving Trust Company.

Q. Did you trace those gold bills to individuals? A. Not those two gold bills. We were not able to trace them to any particular individuals. We followed them out of the bank to two respective business houses, but the various merchants were unable to tell us from whom the bills had been received.

Q. Well, did you get one from Levatino? A. I know the bill you refer to. That is ten-dollar gold certificate A57232100A. That bill was discovered at the National Bank of Yorkville in a deposit

made by R. Boken Fusca Company, 152 Third Avenue, received by them 9-5-34.

*Q.* Did you discuss that bill with the defendant, Bruno Richard Hauptmann? *A.* I did.

*Q.* What have you to say as to what Mr Hauptmann, the defendant, said to you with reference to Levatino and the ten-dollar bill you referred to? *A.* . . . "Don't you remember me giving you this bill?" to Levatino.

*[The bill was received in evidence over objection of the defense.]*

*Cross-examination by MR REILLY:*

The witness testified that some ransom bills were found in Albany, Utica, Troy and near Chicago. A five-dollar ransom bill appeared on April 28, 1934, at Albany. The first bill to appear, according to the witness's records, was on April fourth or fifth, 1932. The cross-examiner carried the witness through his complete records, which indicated that until 1933 the bills had appeared only singly, and not in any great quantity. About May first there was recovered nearly \$3000 at the Federal Reserve Bank. Two or three days previously there were recovered fifty ten-dollar ransom certificates at the Manufacturers Trust, and a few days before that a total of fifty ten-dollar bills at the Chemical National Bank.

The witness said that one bill was traced (June 30, 1932) to the Mount Vernon Trust Company, at Mount Vernon, New York.

*Q.* How would a report come to your department if money was passed, some of these bills were passed in Europe through a bank that had an American banking department, or Cook's, or a travel bureau? *A.* I can't very well tell you that, because no reports of any money having been discovered over there were ever made to us.

*Redirect examination by MR WILENTZ:*

The witness said that a twenty-dollar ransom certificate, No. A35272048A, discovered at the Chase National Bank in East Fordham Road, had been traced to the Exquisite Shoe Corporation, at 266 East Fordham Road. He questioned the defendant about passing the bill at the shoe store.

*Q.* What did he say? *A.* He said he tendered a twenty-dollar gold certificate at that particular shoe store about that particular date. *[September 8, 1934.]*

*Q.* For a pair of shoes? *A.* For a pair of shoes for his wife. *[The twenty-dollar certificate was received in evidence over defense objections.]*

The witness said that the defendant showed him the pair of shoes which he admitted he had purchased at the Exquisite Shoe Company. The shoes were admitted in evidence.

Q. And the largest amount you found was \$2980 (the Federal Reserve Bank deposit) until Mr Hauptmann's arrest, wasn't it? *A.* That is correct.

*[The twenty-dollar certificate found on the defendant's person when he was arrested was admitted over vigorous objection by Mr Pope.]*

Q. Now when this bill was taken from the person of Mr Hauptmann, was there any discussion with the gentlemen as to the source of the \$20—where he got it? *A.* Yes.

Q. What did he say was the source of the twenty-dollar bill, Exhibit S-172? *A.* He said that over a period of years he had been assembling gold certificates, fearing inflation, and that this represented part of the money that he had so assembled, that he was now spending. We questioned him as to whether or not he had any more at home, and he said yes, approximately a hundred.

Q. As a result of that statement did you go to his home to find the hundred? *A.* We did.

Q. What did you find there? *A.* A little better than a hundred dollars in cold coin.

Q. Gold coin, not gold certificates? *A.* Not gold certificates.

Q. And when that was called to his attention did he make any reference to his prior statement that he had little better than a hundred? *A.* He said he referred to gold coin not gold certificates.

Q. Now, Mr Reilly asked you about various moneys and the tracing of these moneys. . . . Now will you please start another . . . list of moneys, if you can—a large amount, if you found any large sums. *A.* Under date of 9-20-34.

Q. That is September 20, 1934? *A.* 1934, 390 ten-dollar gold certificates and 493 twenty-dollar gold certificates, all ransom gold certificates . . . altogether \$13,760.

Q. And where did that money come from? *A.* From the garage of Bruno Richard Hauptmann.

Q. Now, in all your investigation from 1932 to date, did you ever find any money like that in anybody else's garage? *A.* I never found any money in anybody else's garage.

THE COURT: How much did he say it amounted to?

MR WILENTZ: Thirteen thousand, seven hundred and sixty dollars.

Q. Was there any other moneys found in the garage of Bruno Richard Hauptmann that week? *A.* Under date of September 25, 1934, 84 ten-dollar ransom gold certificates were discovered in Hauptmann's garage in a beam.

Q. Eight hundred and forty dollars? *A.* Eight hundred and forty dollars.

Q. So that altogether, \$14,600 in moneys was found in Mr Hauptmann's garage, gold certificates, Lindbergh money, ransom money, is that right? *A.* That is correct.

*Re-cross-examination by MR REILLY:*

The witness explained that one of the ransom bills had been mistakenly reported as having been passed in Asia. The fact was that the bill had been deposited in Ceylon in the January preceding the kidnaping and had been returned, bearing the Ceylon "money stamp", after which it was included in the ransom money.

The witness said that only gold certificates were found in the Hauptmann garage—none of the non-gold certificates.

### MRS ELMIRA DORMER

*Direct examination by MR WILENTZ:*

Q. On March 1, 1932, were you custodian of St Michael's Orphanage, Hopewell? *A.* Yes sir.

Q. How many children did you have in the orphanage? *A.* 306.

Q. Was there a child unaccounted for in that institution in February or March 1932? *A.* None were missing. They were all accounted for.

Q. How about May 12, 1932? Were any children unaccounted for? *A.* No, every day we know all the children and we account for them every day.

Q. So that in the year 1932 there were no children unaccounted for in your orphanage? *A.* No sir.

Q. Are these books the books of attendance of your school? *A.* Yes sir.

MR WILENTZ: If there is any dispute about the attendance I will offer them. If there isn't, I won't.

MR REILLY: There is no dispute.

MR WILENTZ: There is no claim that the child came from the orphanage?

MR POPE: No.

MR WILENTZ: Am I to understand that there is no claim that this child came from the orphanage?

MR FISHER: I thought your proposition was if we didn't dispute the attendance, you would not offer the books.

MR WILENTZ: If there is any claim about it, I will offer them.

MR REILLY: I will say now that there has never been any claim but this was Colonel Lindbergh's child that was found there.

*[At this point Mr Fisher left the courtroom in great agitation.]*

### THOMAS H. SISK

*Direct examination by MR WILENTZ:*

The witness was a special agent for the Division of Investigation of the United States Department of Justice. He participated in the arrest

of Bruno Richard Hauptmann in September 1934 and testified: "We pulled his car to the curb between 177th and 178th streets, on Park Avenue, in New York City. . . . He was pulled out of the car and Lieutenant Arthur Keaton of the state police, and, I believe, a New York police officer and myself started to search him. Keaton took from his rear left-hand pocket a wallet, and out of that wallet, in Hauptmann's presence, he took a twenty-dollar gold certificate. Special Agent Seery checked that bill in Hauptmann's presence and found it was one of the Lindbergh ransom bills. And we then wrote our names or initials on it.

An attempt to introduce six lottery tickets found in Hauptmann's home failed upon Mr Pope's objection. The attorney general argued that he would show that "this gentleman did not work from April 2, 1932, which is the date of the payment of the ransom", and that the State would show the fashion in which the defendant spent much of his money. The lottery tickets were therefore marked for identification.

*Q.* Now, I show you S-172, being a twenty-dollar bill with your name on it. Is that the twenty-dollar bill that was found on his person?

*A.* Yes sir.

*Q.* Where did he say he got that twenty-dollar bill? *A.* He said that this particular bill was one of an accumulation of \$300 in gold bills which he had accumulated for several months. I asked him where he got the bills and he said from different banks in New York during the past several months prior to the arrest. I asked him to name one bank and he named the Central Savings Bank of New York City. I asked him if he could name any other bank and he said no. I asked him if he had an account at the Central Savings Bank and he said yes. So I said, "Well, we will go up there to the bank and see whether or not that bank gave you any gold certificates. If you have an account there the tellers probably know you." So then he said, "Well no, I didn't get them at the Central Savings Bank. I just got them from every place that I went, and if I could get a gold certificate, I would get it, because of the inflation," or something of that—

*Q.* What did he say as to what had happened to the \$300? *A.* He said that this particular bill here was the last one.

*Q.* Following that, what happened then, as between the two of you? *A.* Why, I asked him if the statement that he had made to the filling-station man that he had a hundred more was true, and he said, "Yes, that is a true statement." So I said, "Well, where are the hundred more?" He said, "Up at the house, up at my house in a tin box."

*Q.* Did you go up to the house? *A.* We went up to the house, yes sir, and he produced a small metal box with some sort of a lock on it, a combination lock, and he opened that box and took out \$120 in gold coins. He said, "There is the \$100 or more." We pointed out

to him that that was gold coin and that we were talking about paper money, and he just didn't answer.

Q. What then happens, after you get through with this gold coin business? *A.* We started to search the house, each room systematically.

Q. In his presence? *A.* In his presence, yes sir.

Q. Did he make any objection? *A.* No, he did not.

Q. What happened? *A.* We had him sit down at a chair near the window, almost alongside of the window in the rear room, and we were searching that same room; I think two of us: Corporal William Horn and myself. And Corporal Horn was searching a dresser or a chest of drawers next to a closet, and I was in the closet, delving around, looking at shoes and going through clothes; and while doing so, I noticed that Hauptmann would get up a little from his chair and look out the window. He did that four or five times.

Q. Were you in the room when he was looking out? *A.* I was in the closet and I was kind of watching him and when it appeared to me that when nobody was looking at him, why he would sort of raise up and look out the window.

Q. And as you looked out that window in the direction that he looked, what would you face? *A.* Well, you would face the garage.

Q. How far is the garage from that window? *A.* Approximately fifty feet.

Q. As the result of that, what did you do? *A.* I called Lieutenant Arthur Keaton and he observed it also, I believe. I then went over to Hauptmann and I said, "What are you looking at when you are sneaking these looks out the window?" And he said, "Nothing," so I tried to figure out what he was looking at, so I looked out myself.

Q. What did you see when you looked out? *A.* Well, the garden that is directly under the house; he was looking a little to the right of that, and the only thing there was the garage and a few trees in back of it. Then I said, "Is that where you have the money?" or some such remark, and he said, "No, I have no money."

Q. Then what happened? *A.* Well, Lieutenant Arthur Keaton, of the New Jersey State Police, and Inspector John Lyons, of the New York police, and myself went down into that garage to search it. And we found that the two middle planks on the floor of the garage were loose, and we took a crowbar and we pried them up, and underneath them was some freshly disturbed dirt, as though someone had been digging, so we got a shovel or a spade and we dug down and we found a crock.

Q. Crockery? *A.* I don't know what it was made out of; it was all covered with mud and, yes, I imagine that is what it was, either crockery or some sort of heavy metal.

Q. Had it been buried there? *A.* It was about a foot underground.

Q. When you say a foot underground, was it covered with dirt? *A.* It was covered with dirt and it had a lid on it and at the bottom was about a quarter—oh, about two or three inches of water.

Q. Still in there—water—did you remove it? *A.* Yes sir, we did.

Q. Did you find any money in there? *A.* No sir. We questioned Hauptmann as to that jug. He denied knowing anything about it, but the next day when we questioned him he admitted that he had that money in there three weeks before he was arrested.

Q. In the jug? *A.* In that jug.

THE DEFENDANT HAUPTMANN: Mister, Mister, you stop lying. You are telling a story.

THE COURT: One moment. Let me suggest to the defendant that he keep quiet. If he has any observations to make, let him make them quietly through counsel.

MR WILENTZ:

Q. Did you make the same statements at that time that you are making now? *A.* Yes sir.

Q. How long were you at the house? *A.* We were at the house approximately an hour, maybe an hour and a half; I don't know exactly about the time.

Q. Did you continue to talk to him about this situation in an effort to find the money? *A.* Yes.

Q. Did he tell you? *A.* I asked him where he had bank accounts.

Q. What did he say? *A.* He said that he had bank accounts either in his own or his wife's name at Steiner Rouse & Company, New York City, E. A. Pierce & Company, New York City, Central Savings Bank, New York City, and the Mount Vernon Trust Company in Mount Vernon, New York.

Q. Was there anything said about a safe-deposit vault? *A.* Yes, but I didn't talk to him about that; someone else did.

Q. While you talked to him was there anything said about his having a lawyer? *A.* I believe on the twentieth some one of us asked him if he wanted to get a lawyer.

Q. And what did he say to that? *A.* He said, "What is the use?" That is all he said.

*Cross-examination by MR REILLY:*

Q. It was your order that placed the defendant under arrest, wasn't it? *A.* Well, yes, it had something to do with it.

Q. As a matter of fact, you actually apprehended him, didn't you? *A.* No, I don't say that I actually—

Q. Well, didn't you? You had a man named Finn with you, didn't you, of the New York City police? *A.* There were eight other officers present.

Q. They kept the defendant standing an hour and a half on the sidewalk, didn't they? *A.* No sir,

## 296 TRIAL OF BRUNO RICHARD HAUPTMANN

Q. How long did they keep him on the sidewalk waiting for Inspector Lyons of the New York City police? *A.* They kept him on the sidewalk about five minutes.

Q. Where did they take him then? *A.* They gave him a seat in the automobile.

Q. How long did you keep him in the automobile before Lyons appeared? *A.* I don't recall that. I would say we had him in the car altogether—I would say around an hour that we had him in the automobile.

Q. Then where did you take him? *A.* We went up to his house with him.

Q. Right from the arrest? *A.* Yes sir.

Q. How long did you have him home before you landed him down in the Greenwich Street station? *A.* We had him in his house for about, approximately an hour and a half, I would say.

Q. Who else was in the house at that time of his family? *A.* Mrs Hauptmann was there.

Q. Who else? *A.* There was a woman, I believe, a neighbor, who came into the hallway and talked to Mrs Hauptmann, but no one else from the family at that particular time.

Q. Then, after being an hour and a half in his apartment, did you go to the Greenwich Street station house? *A.* Well, we stopped by a bank on the way down there to check a safety-deposit box.

Q. Now, you said he told you he had an account in Mount Vernon? *A.* He said that either he or his wife had accounts there.

The witness was excused, to return the following day with official reports he had not with him at the time.

### HENRY EICHIN

*Direct examination by MR WILENTZ:*

The witness, an engineer and surveyor, identified maps of the Bronx, indicating the respective locations of the defendant's home, and Woodlawn and St Raymond's cemeteries.

## THIRTEENTH DAY

*Flemington, N. J., January 18, 1935.*

**H**ENRY EICHIN RESUMED the stand under cross-examination by Mr Reilly. He continued his description of the terrain in which Hauptmann was accused of operating and identified photographs of several of the localities playing a part in the extortion of the ransom.

### JOHN WALLACE

*Direct examination by MR WILENTZ:*

The witness, a detective sergeant of the New Jersey State Police, participated in the arrest of the defendant in September 1934, in the Bronx, after watching Hauptmann's house the night previously. He described Hauptmann's leaving his house at about nine o'clock in the morning and driving away in his Dodge sedan. The arresting officers had divided into three groups. In Park Avenue, near Tremont, "his car came to a stop. . . . Detective William Wallace was driving the Ford sedan in which we were riding. Trooper Duerr was seated in the front seat alongside of Detective William Wallace, and I was in the rear seat of the same car. Trooper Duerr left the right-hand side of our car and shouted to Hauptmann to pull over to the side of the curb, and I left the rear door of our car and went around the right side of the defendant's car and slid in the driver's seat with the defendant. . . . He (Hauptmann) was asked to get out on the sidewalk, which he did. I had ahold of his right wrist and led him out. He was searched by Lieutenant Keaton and the officers. In the left rear pocket a wallet was found which contained twenty-nine dollars."

The witness said that included in the money found on the defendant was the twenty-dollar Lindbergh ransom bill, on which Lieutenant Keaton, Agent Sisk and Lieutenant Finn put their names.

*Q.* Now, when Mr Hauptmann was first apprehended . . . did he make any explanation of the twenty-dollar gold certificate that was found in his pocket? *A.* Yes.

*Q.* What was it that was said, as nearly as you can remember? *A.* The defendant . . . stated that this bill was the last of \$300 worth of gold certificates which he had had in his possession and accumulated in the past two years.

Q. . . . Was he asked if he had any more? *A.* He was asked that in the car on Park Avenue; he stated that he did not have any more, but he had \$120 in gold pieces at home in a strongbox.

The witness asserted Hauptmann never mentioned the money in his garage at any time.

After a search of the defendant's safe-deposit box at the Central Savings Bank had revealed no money Hauptmann was taken to the Greenwich Street police station for questioning.

Q. Were you there when he was asked to make certain writings? *A.* I was, yes sir.

Q. In what manner was it dictated? *A.* To the best of my recollection the words were dictated and not spelled. . . . I never heard any words spelled to the defendant.

On the following day the witness, in company with Detective James Petrosino, of the New York City police, and Agent Leon Turrou, of the Department of Justice, visited the Hauptmann home. There they met Detectives Edward Murphy and Frank Dunn, of the New York City police. The house was searched in the presence of Mrs Anna Hauptmann. After the house was searched the officers went to the garage.

Q. What did you find there? *A.* I found a wooden plane about eighteen inches long, with a trademark "Sargent, Serial No. 3418, initials V. B. M."

*[The plane was identified by the witness and received in evidence as State's Exhibit S-177.]*

Q. What else was found in your presence or at the time while you were there? *A.* During the search of the garage in the presence of Mrs Hauptmann, myself, Detectives Dunn and Murphy, Detective James Petrosino of the New York City Police Department found two packages of gold certificates wrapped in newspaper, New York *Daily News* of June 25, 1934, and New York *Daily Mirror* of September 6, 1934, in the south wall of the garage in a compartment.

*[The two packages of bills were identified by the witness and received in evidence over the objection of Mr Pope.]*

The witness identified a photograph of the interior of the Hauptmann garage and said the money was found "on the southeast corner, above the workbench."

Q. Was it concealed or was it not concealed? *A.* Concealed, with a board nailed across two uprights, making a sort of a compartment in the wall of the garage.

Q. Now, the New York police officers continued to inspect and search in and about that garage after that, didn't they? *A.* Yes sir.

Q. And did the New York officers find something there while you were there? *A.* Yes sir.

Q. Tell us who it was, and exactly what happened there. *A.* In the presence of Mrs Hauptmann, Detective James Petrosino, Agent Turrou, Detective Frank Dunn, myself, Detective Edward Murphy located a one-gallon shellac can underneath the workbench in the south window of the garage.

Q. Now, when New York police officers located this can, what was found in it? *A.* Two cloths at the top of the can, and underneath the cloths twelve packages of gold certificates, ten- and twenty-dollar denominations, wrapped in newspapers dated June 25, 1934, and September 6, 1934, New York *Daily News*.

Q. How much money was there? *A.* Eleven thousand, nine hundred thirty dollars.

Q. What kind of money? *A.* Lindbergh ransom notes, gold certificates.

Q. Have you got them here; can you tell them when you see them? *A.* I can, yes sir.

Q. Pick them out, please. [*Handing an envelope to the witness.*] *A.* [*Witness produces bills wrapped in a newspaper.*]

Q. I notice a lot of initials on this newspaper. Are yours on there somewhere, or were those initials placed on there in your presence? *A.* Yes.

Q. Did you initial all the bills? *A.* I did; yes sir.

Q. You bring them in here in envelopes and packages. Is that the way you found them? *A.* Yes sir.

Q. What I mean to say, Officer, is, did you make up the package or are these bills in the packages in which they were found? *A.* Just as they were found.

Q. So that when I present for evidence fifty twenty-dollar bills, making a total of a \$1000 in one package, was there actually this package of fifty twenty-dollar bills together and separated from the others? *A.* Exactly the same, together with the same sheet of newspaper which wrapped the bills.

Q. So that there, in that can, were these various packages of money; is that it? *A.* Twelve packages; yes sir.

MR WILENTZ: For the sake of convenience and help I will offer the paper and the \$1000 as found at that time, according to the testimony.

MR POPE: And we object to that, sir.

THE COURT: It will be admitted, and you may have your exception. [*Paper and money were received in evidence and marked Exhibit S-184.*]

MR WILENTZ:

Q. Every one of these bills are initialed, are they not? That is your initials? *A.* Yes sir, on the gold seal.

Q. And every one was initialed and found in the presence of Mrs Hauptmann, is that it? *A.* Yes sir.

Q. Let's have the rest of it. [*Witness hands Mr Wilentz another package.*] *A.* Fifty twenty-dollar bills, the amount \$1000.

Q. Gold certificates, Lindbergh money? *A.* Gold certificates, Lindbergh ransom notes, wrapped in the New York *Daily News*, June 25, 1934.

Q. In the original package? I mean, the \$1000 as indicated before? *A.* Yes sir.

[*Envelopes referred to were received in evidence and marked Exhibits S-185, S-186, S-187, S-188, S-189, S-190, S-191, S-192, S-193, S-194, S-195.*]

Q. I notice, Officer, in Exhibit S-194, that there is only \$940. Is that the way it was found? *A.* Yes sir.

Q. Then there is another batch, Exhibit S-188, with \$990; that was found in that total, in that sum? *A.* Exactly, sir.

Q. So that except for these two packages out of the twelve found in the can, the shellac can, marked Exhibit S-181, all were \$1000 with the exception of these two packages? *A.* Yes sir.

Q. As you walked into the garage could you, with the naked eye, find this Exhibit S-181? *A.* No sir. The money was concealed between the workbench and the window of the south wall of the garage; the can was supported between uprights by two nails driven into the side wall of the garage. Across the uprights was a wide board which would conceal the can from anyone's view.

Q. Did you return then to the 2nd Precinct in the New York police station? *A.* Yes sir.

Q. Did you talk to Mr Hauptmann, the defendant, then? *A.* Yes sir.

Q. What did he say about it? *A.* He stated that he placed these two packages of money, naming the one-gallon can and the two packages wrapped in newspaper, on the south wall of the garage. . . . He stated that this money was placed there about two weeks previous to our finding it . . . (that) the money was wet and he had had it out in a basket drying, and after the money was dried he wrapped it in a newspaper and concealed it where it was found.

Q. Did he say where it had been before he rewagged it? *A.* He stated that the money had been in a shoe box in a broom closet in the kitchen of his home.

Q. Did you ask him if he had any more money? *A.* I did; yes sir.

Q. What did he say? *A.* He stated he did not have any more money.

*Cross-examination by MR FISHER:*

The witness said he was not present when all the request writings were made by the defendant but that he saw him write more than two specimens. His recollection was that the writing was done about 2:10 A.M. on the morning of September 20, 1934. He received his instructions to

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go back to the Hauptmann home on the twentieth, from Colonel Schwarzkopf, in the presence of Inspector Lyons.

Q. Now, didn't you go back to the Hauptmann house and look for money exactly where Bruno Richard Hauptmann told Inspector Lyons it would be found? *A.* No sir.

Q. But Hauptmann had been in custody from nine o'clock the day before until ten o'clock the twentieth, is that correct? *A.* Yes sir.

Q. Now, you had a conversation with Hauptmann after you had found the money? *A.* Yes sir.

Q. Now, in that conversation with Hauptmann you said that he told you that he had the money out to dry, or some such thing? *A.* He did; yes sir.

Q. And where did he say it had been when it became wet? *A.* He stated in the broom closet in a shoe box.

Q. And didn't he also state where he got the shoe box with the money in it? *A.* He did; yes.

Q. And where did he tell you he got it? *A.* He stated that he got the shoe box or the money from Isidor Fisch.

Q. And that was within thirty hours of his arrest; is that correct? *A.* That was approximately; yes.

## ELLA ACHENBACH

*Direct examination by MR WILENTZ:*

Q. Where did you live in March 1932? *A.* I lived at 1253 East 222nd Street.

Q. Did you know Mr and Mrs Hauptmann at that time? *A.* I met Mrs Hauptmann in 1927, when I took her into my employment as a waitress.

Q. Did you see Mr Bruno Richard Hauptmann sometime in March 1932, after the Lindbergh kidnaping? *A.* Yes, they came home from a trip.

Q. Where did you see him? *A.* Anna Hauptmann came to my front porch and told me they just came home from the trip.

MRS ANNA HAUPTMANN: Mrs Achenbach, you are lying.

MR WILENTZ: If your honor please, we object to these demonstrations, whether they are staged or otherwise.

MR FISHER: I ask that those remarks be stricken.

THE COURT: One moment. Who said that?

MR WILENTZ: Mrs Hauptmann.

THE COURT: This is the second time this thing has happened.

MR FISHER: I think the statement made is sufficient. What I resent, and I don't think it was intended, was the general remark: "whether they were staged or not."

MR WILENTZ: I insist upon that remark, so far as I am concerned,

if your honor please, very respectfully. I insist that it remain in the record; that is just what I meant, whether counsel resents it or not. This is the third time, if your honor please, not the second, with a witness on the stand before, and the delightful defendant addressed him from there yesterday and again today, Mrs Hauptmann. Now if your honor please, is the Court conducting it, or Mr and Mrs Hauptmann? I know the Court is, and so, if your honor please, I stand by the statement made by me for the State.

MR FISHER: The statement just made by counsel is far more unfair than the last statement.

THE COURT: One moment. I do not think that I will strike any of the statements of the attorney general from the record. Of course, my anxiety is to conduct this trial in an orderly and fair fashion and I have assumed all the time that that is joined in by counsel.

MR REILLY: It certainly is.

THE COURT: Yes. Now, what has counsel to suggest to the Court in the way of dealing with this problem?

MR WILENTZ: So far as the State is concerned, if your honor pleases, I suggest that we may be permitted to bring witnesses here without being called names while they are testifying.

THE COURT: Of course, of course, but I am talking now about the outburst, these outbursts.

MR WILENTZ: I have no suggestion, and I do not know as one can be made, except what your honor has already done to inform the parties offending. I have no desire to exclude any of the parties that are now in the room.

MR REILLY: Of course, the Court will appreciate that both the defendant and his wife are under high tension, and as I said before, I have no desire to interfere with the judicial calm which has heretofore prevailed, and many times my patience has been attacked and I have sat under the benign influence of your honor. I think the admonition which your honor has administered is sufficient.

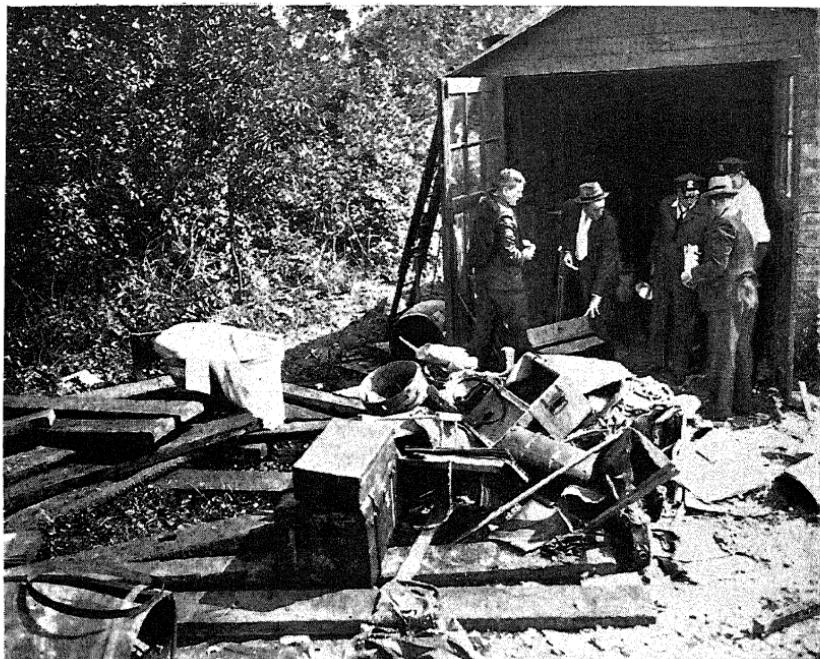
MR WILENTZ: I agree, sir. I think a judicial admonition to the defendant and his wife would be sufficient.

THE COURT: Well, this woman who made this outburst a moment ago, I understand, is Mrs Hauptmann, the defendant's wife. Well, madam, don't you see the impropriety of your interrupting this trial in an outburst of this kind?

MRS HAUPTMANN: I am sorry, your honor, but I couldn't help it—

MR WILENTZ: No. I am sorry if I am offending the Court, but may I state that I object to the lady making any addresses in the courtroom?

THE COURT: I am asking her whether or not she does not see the impropriety of that thing. Now, you see that it was wrong for you to make that outburst, don't you, Mrs Hauptmann?



*Acme*

An action shot of the police searching Hauptmann's garage. Shortly after this picture was taken \$13,750 of the ransom money was found under the garage floor.



*Acme*

Ransom notes and a 25-caliber automatic of German make were found in this piece of wood in the garage.



MRS HAUPTMANN: Yes sir, your honor.

THE COURT: Now, will you promise me and these gentlemen here and the jury that you won't offend in that respect again?

MRS HAUPTMANN: Well, I will try to do, but sometimes I just can't help it.

THE COURT: But I am asking now whether or not you will promise to keep quiet.

MRS HAUPTMANN: I will.

THE COURT: Yes. And I think we have in effect that kind of a promise out of the defendant, haven't we?

MR REILLY: Yes sir. In fact he wanted to address the Court yesterday, but I wouldn't permit it, because I didn't want anything interrupted, but he wanted to apologize to your honor for his outburst.

MR WILENTZ: I appreciate counsel's last remark, but I would appreciate it, too, if he joined with me in having it out of the record that the defendant wanted to apologize. I think telling that to the Court in chambers or at side bar is sufficient. I don't want it to be a part of the record in a matter of argument.

MR REILLY: Your honor invited my reply as to whether I could certify that he would not do it again.

THE COURT: This is rather an embarrassing situation. However, we will have to proceed.

[*Testimony continued.*]

MR WILENTZ:

Q. She came to the porch that day? *A.* We were talking about ten or fifteen minutes about her trip.

Q. Did Mr Hauptmann come? *A.* After that Mr Hauptmann came up also.

Q. When he came there, there were Mr and Mrs Hauptmann and yourself on your sun porch; is that right? *A.* The three of us, yes.

Q. Was he all right? *A.* He was all right while he was sitting there.

Q. Then what? Did you observe anything about him? *A.* Before they went home she said, "Oh, another thing happened to Richard; he hurt his leg."

Q. Was he there? *A.* Of course he was there. She said he sprained his ankle pretty bad.

Q. How did he walk when he went down the steps? *A.* When he went down my front steps he kind of supported himself on the side of the stoop.

Q. Did he walk with a limp? *A.* They were both walking toward their house; he was walking with a limp on the left leg.

*Cross-examination by MR REILLY:*

Q. When did Anna Hauptmann take one of your children at your request to Europe? *A.* During the summer, 1928.

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Q. Did she bring the child back? *A.* She certainly did.

Q. And after she came back in 1928 she presented you with a bill for her expenses, didn't she? *A.* I guess that is right.

Q. And you haven't paid it yet, have you? *A.* Oh, my goodness—is that so? Is that what she said?

Q. Have you paid the bill in question? *A.* Yes.

Q. When was the bill paid? *A.* Right after she came home.

Q. When for the first time did you tell anybody about Bruno Richard Hauptmann's limp? *A.* I told my husband after they were gone.

Q. When for the first time did you tell any official about the limp? . . . *A.* That was not until about a week after Mr Hauptmann was arrested.

Q. Now, isn't it a fact that you haven't paid Mrs Hauptmann and that she is angry with you? *A.* No, absolutely not; she got every cent that is coming to her.

### WALTER LYLE

#### *Direct examination by MR WILENTZ:*

The witness was an attendant at the Warner-Quinlan gas station where Hauptmann purchased five gallons of gasoline in September 1934. ". . . he took an envelope out of his pocket and took a ten-dollar gold certificate out of it. I looked at it, turned it over and said, 'You don't see many more of these.' He said, 'No, I have only about a hundred left.' "

The witness stepped to the rear of Hauptmann's car and marked the license number on the back of the bill.

### STANLEY R. KEITH

#### *Direct examination by MR WILENTZ:*

The witness, a metallurgist, had affixed metal tabs to the nails in the so-called kidnap ladder, for identification. He had received the nails from Captain Lamb and returned them to him.

#### *Cross-examination by MR POPE:*

The witness could not say who removed the nails from the ladder, since this was not done in his presence. He had possession of the nails from October nineteenth until January fifteenth, after receiving them from Captain Lamb at the New Jersey Police Training School.

### JAMES PAUL PETROSINO

#### *Direct examination by MR WILENTZ:*

Witness corroborated finding of the money in Hauptmann's garage and identified the plane, the one-gallon can and the cloths found in the can.

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## *Cross-examination by MR REILLY:*

He did not know whether "four or five other small planes" were found in the garage.

JAMES M. CASHMAN

## *Direct examination by MR WILENTZ:*

The witness was a New York detective. He identified a chest of tools found in the Hauptmann garage. The tools were admitted in evidence without objection.

CHARLES F. W. ENKLER

## *Direct examination by MR WILENTZ:*

The witness, a carpenter for the New York City Police Department, was present when Officers Cramer, Tobin and Bornmann found, nailed into the wall of the Hauptmann garage, a piece of two-by-four containing five holes, in each of which was a roll of bills.

[*The board was admitted in evidence as State's Exhibit S-197.*]

ANSELM CRAMER

## *Direct examination by MR WILENTZ:*

The witness, a carpenter for the New York City Police Department, was the one who discovered the board with the holes to which the previous witness referred. He corroborated Enkler as to the position in which the board was found.

MAURICE W. TOBIN

## *Direct examination by MR WILENTZ:*

The witness, a New York City police detective, identified five envelopes containing bills which, he said, had been found in the holes in the board to which the previous witnesses had testified.

[*The envelopes and money were received in evidence as State's Exhibits S-198, S-199, S-200, S-201 and S-202 respectively.*]

Altogether, the witness testified, there was found \$840 in the five holes. With other officers he checked the numbers on the bills against the ransom list and found the money was definitely Lindbergh money.

*Q.* Now, were you with Inspector Bruckman when there was a search of the house? *A.* I was.

*Q.* And do you remember when Inspector Bruckman tore down a piece of lumber from the inside of a closet? *A.* I do.

The witness identified the board discovered and removed from the Hauptmann house by Inspector Bruckman. He said the inspector

"squeezed into a closet" and came out with the board. On the board were the penciled notations, "2974 Decatur Avenue" and "Sedgwick 3-7154."

*Cross-examination by MR POPE:*

Q. Now, no one noticed any figures on this piece of board until Inspector Bruckman squeezed into the closet, as you say, and then came out and reported what he had discovered? A. Not that I know of.

[*The board was received in evidence as State's Exhibit S-204.*]

HENRY D. BRUCKMAN

*Direct examination by MR WILENTZ:*

Q. What is your rank in the Police Department of the City of New York? A. I am inspector, commanding the 18th Division, Bronx, that is the Detective Division in the Bronx.

Q. I show you Exhibit S-204 and ask you if you won't tell me where this board came from, who got it and the circumstances relating to it? A. As a result of the investigation and the interviewing of various witnesses, I had a conversation with the assistant chief inspector. As a result of that conversation I communicated with the superintendent of buildings, Mr Wilson. That was on the twenty-fourth day of September. As a result of that conversation I appeared at Hauptmann's home on the morning of September twenty-fifth. I had a conversation with the carpenters in the presence of the detectives who were assigned to conduct the search. I wanted to give them the benefit of such knowledge as I gained during the course of the investigation, and I went there for the purpose of directing their attention along certain investigational lines. When I got to the room in which this closet is located I found they were clearing the room. It had not been fully cleared. The shelf was still in this closet and a clothes rack and a pole was in the closet. I instructed the carpenters to remove the shelf and this pole. I entered the closet—and I backed up into the closet and as I was in there I observed what appeared to be a smudge and I put my glasses on and I looked at it and I addressed a remark to Detective Bornmann.

Q. You put your glasses on, and then on close observation what did you find? A. I observed the numbers.

Q. What were the numbers? A. Two-nine-seven-four Decatur, and S-7154—the first letter appears to me to be S; the second letter is not—I can't determine that; the next is DG, and I concluded it was "Sedgwick."

Q. Two-nine-seven-four Decatur Avenue; is that address familiar to you? A. Yes sir.

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Q. Whose address is that? *A.* Doctor Condon's address.

Q. Did you check up at that time to find out what the other numbers with Sedgwick or whatever it is, 3-7154? *A.* I know what they were.

Q. What were they? *A.* Doctor Condon's telephone number.

Q. Was that Doctor Condon's telephone number in 1934? *A.* No sir.

Q. That was Doctor Condon's telephone number when? *A.* In 1932.

Q. But you found the board there in 1934, did you? *A.* I did.

Q. When this board was found I take it, Inspector, that eventually Mr Bruno Hauptmann, who was in custody, was told about it, was he not? *A.* Yes sir.

Q. Were you present? *A.* I was.

Q. Who else was present, sir? *A.* District Attorney Foley (of Bronx County).

Q. Tell me, please, what was said to Mr Hauptmann and what he said with particular reference, limiting it to this board? *A.* He was asked whether he recognized the board as coming from his home and he said yes. He was asked whose handwriting it was in; he said he recognized the 2974 as his handwriting. Then Mr Foley asked him whether he didn't write it all and he said he thought he did. Mr Foley asked him how he happened to write it. He said, "Well, I was a little bit interested; the papers were full of the Lindbergh case and I was a little bit interested and I must have had a newspaper and probably was putting paper on the shelf in the closet and I copied down this number."

### *Cross-examination by MR REILLY:*

Q. Was there an electric light in the closet? *A.* The closet did not have an electric light.

Q. Was there any light in the closet, any artificial light? *A.* No, excepting that it was on the twenty-fifth day of September; I know I left there at 11:15 A.M.; there is a reasonably large window in this room and I would say the light was fairly good.

Q. Well now, here is a doorway; will you show us where the trim was? *A.* Well, if you come inside of this door here, I would say the trim was right here. [*Witness steps inside door in the courtroom and points to board.*]

Q. The inside trim of the door of the closet, which trim you would face if you had your back up against the wall of the closet? *A.* That is correct.

Q. And there was no artificial light? *A.* No sir.

BENJAMIN ARAC

### *Direct examination by MR WILENTZ:*

Q. Mr Arac, were you a court stenographer in the Bronx on September 25, 1934? *A.* Confidential stenographer to the district attorney.

Q. Will you read to me with reference particularly to the—do you remember District Attorney Foley asking Hauptmann some questions with reference to the board, which is now Exhibit S-204? *A.* Yes sir.

Q. Take that testimony, take those stenographic notes, please, and tell us what it was. *A.* "Statement taken on September 25, 1934, in the office of the district attorney at 11:55 A.M."

Q. Will you tell us the first question? *A.* "Q. Hauptmann, I want to ask you some questions about this board. You know it is from your closet in your own home, don't you? *A.* It must be." At that point I marked a tag, marked it Exhibit I, and put it around the board.

Q. Is the tag that you talk about marked around the board; I mean, is this the board you were referring to, Exhibit S-204? *A.* Yes, that is right.

Q. The questions are by District Attorney Foley? *A.* That is correct.

Q. All right. Continue. *A.* "Q. It is the same kind of wood; your handwriting is on it. *A.* Yes, all over it. *Q.* What did you write on that board? Read it to the stenographer. *A.* I can't read it any more.

"Q. Who rubbed it out? Can you read the address on it? *A.* Two-nine-seven-four. I can't make out the first. I remember the number—I read the number down below—37154.

"Q. What else can you read on that board that you wrote yourself? *A.* I can't read; that's a *t-u* and *r*; another one I can't make out.

"Q. That is Doctor Condon's address, isn't it? *A.* I don't know.

"Q. Why did you write it on the board? *A.* I must have read it in the paper about the story. I was a little bit interest, and keep a little bit record of it and maybe I was just on the closet and was reading the paper and put down the address.

"Q. How did you come to put the telephone number on there? *A.* I can't give you any explanation about the telephone number.

"Q. Your only explanation for writing Doctor Condon's address on this board and telephone number is that you were probably reading the paper in the closet and you marked it down; is that correct? *A.* It is possible that a shelf or two shelfs in the closet and after a while I put new papers always on the closet and we just got the paper where this case was in and I followed the story of course and I put the address on there.

"Q. That is why you marked it on the door? *A.* That is the only explanation I can give.

"Q. Your answers to my questions here are made of your own free will; is that correct? *A.* Yes.

"Q. And all of the time you have been in my hands you have been well treated? *A.* Yes.

"Q. Is there anything more you want to say about it or add to it?

*A.* No.

"Q. Do you remember the day that you wrote this memorandum on the board? *A.* No.

"Q. You remember that you did write it? *A.* I must write it, the figures; that's my writing.

"Q. The writing is yours, too, isn't it? *A.* I hardly can read it.

"Q. From what you see of it, it is your writing, isn't it? It is your figures and your writing? *A.* I really can't remember when I put it on.

"Q. Regardless of when you put it on, it is your figures and your writing, isn't it? *A.* The writing I can't make out so very clearly; I don't know.

"Q. Do you know who rubbed it out or tried to rub it out? *A.* No."

*Cross-examination by MR REILLY:*

Q. Counsel was not in the room at the time he was being questioned?

*A.* Counsel was not there.

WILLIAM MULLIGAN

*Direct examination by MR WILENTZ:*

The witness, a customers' man for the brokerage firm of Steiner Rouse & Company, knew Bruno Richard Hauptmann, who was one of his customers, trading first in his own name and later under the name of Anna Schoeffler.

Q. Were the moneys that came to Steiner Rouse & Company moneys that Mrs Hauptmann gave herself, or were they moneys which were presented by Mr Hauptmann? *A.* By Mr Hauptmann.

Q. Have you ever dealt with Mrs Hauptmann at all? *A.* No sir.

*Cross-examination by MR REILLY:*

The witness knew Isidor Fisch, who visited the brokerage house with Hauptmann "five or six times."

*Redirect examination by MR WILENTZ:*

Fisch had no account with his firm and never gave him any money for purchase of stock. At no time did any gold certificate from Hauptmann come back to the firm from the Federal Reserve Bank.

JOSEPH H. BURKHARD

*Direct examination by MR WILENTZ:*

In his capacity as a lawyer the witness conducted a transaction in January 1933 by which a mortgage was transferred from one Katie Yonker

to Anna Hauptmann, for the sum of \$3750. Mr Hauptmann told him to put the mortgage in his wife's name. Both Mr and Mrs Hauptmann were present at the time.

[*A certified copy of the mortgage was admitted in evidence.*]

### HARRY TRISTER

*Direct examination by MR WILENTZ:*

The witness, a clerk in the bank of the Mount Vernon Trust Company, testified that the defendant opened an account in his bank on June 1, 1932, and that during 1932 and 1933, respectively, Hauptmann deposited \$232.75 and \$186 in silver. Total deposits in 1932 were more than \$1200 and in 1933, \$600. When the bank was restricted Hauptmann had a balance of \$220.36.

*Cross-examination by MR REILLY:*

The deposits were in small bills "and a lot of change."

*Redirect examination by MR WILENTZ:*

Q. By "a lot of change" you mean silver? A. That is right.

### HERMAN RIEDRICH, JR

*Direct examination by MR WILENTZ:*

An employee of the Central Savings Bank, the witness testified his bank had an "original" account in the name of Anna Schoeffler, which had been changed to a joint account of Richard and Anna Hauptmann, and which, on March 25, 1933, was changed again to Anna Schoeffler. The cash was deposited "by both, at various times."

*Cross-examination by MR REILLY:*

Q. Now, I notice the initial deposit into the Anna and Richard Hauptmann account, your Ledger No. 25454, shows an initial deposit of \$411.16? A. That is right.

Q. Was that a transfer from the account of Anna Schoeffler? A. It was.

Q. So that it was a continuous account, only a change of name? A. Change of name, yes.

Q. Now, when did that account of Anna and Richard again go back into the name of Anna Schoeffler? A. March 25, 1933.

Q. And when that account was opened how much was transferred from the Anna and Richard Hauptmann account? A. Two thousand, five hundred and twenty-eight dollars and thirty-five cents.

Q. And that was an account that covered from April 1, 1928, down to March 2, 1933, an account of over five years standing in your bank at that time? A. Yes sir.

Q. And that account is still open in the name of Anna Schoeffler; correct? *A.* It is; correct.

Q. And that now bears a balance of how much? *A.* One thousand eighty-six dollars and eight cents. That is exclusive of April—of January interest, which is \$6.78.

*Redirect examination by MR WILENTZ:*

Q. How much money was in this account at the end of 1931 and the beginning of 1932? *A.* At the end of 19—during 1931 it was a balance of \$77.26.

Q. Seventy-seven dollars and twenty-six cents? *A.* Seventy-seven dollars and twenty-six cents; that is true.

Q. That was the balance? *A.* That was; that was the balance in that account.

On April 2, 1932, the witness testified, Mrs Hauptmann had \$203.90 in the account. At the end of 1932 she had \$2528.35, and at the end of 1933, \$5040.85. On the date of Hauptmann's arrest, in September 1934, the account stood at \$2578.

*Re-cross-examination by MR REILLY:*

Mrs Hauptmann had opened her account on October 27, 1924, and deposited small amounts until, in the autumn of 1927, she had a total of \$4038.28. In October 1927 she withdrew \$3750, with which a mortgage was purchased. There were further deposits until November 1, 1929, when \$2800 was withdrawn.

*Redirect examination by MR WILENTZ:*

Mrs Hauptmann's account increased more than \$2000 from April second to the date of Hauptmann's arrest.

# FOURTEENTH DAY

*Flemington, N. J., January 21, 1935.*

WILLIAM E. FRANK

*Direct examination by MR WILENTZ:*

**T**HE WITNESS was an agent of the Intelligence Unit of the Treasury Department of the United States government. On April 2, 1932, the amount of Hauptmann cash in the Central Savings Bank was \$203.90. In addition the Hauptmanns' assets included 50 shares of Warner Brothers Pictures stock, with a market value of \$100.

" . . . total cash deposits in all the brokerage accounts in the name of the defendant and his wife from April 2, 1932, to September 19, 1934, was \$16,942.75."

During the same period the total cash deposits in banks, by the defendant and his wife, amounted to \$9073.25.

*Q.* Have you inspected the brokerage accounts of the defendant and his wife? *A.* Yes sir, I have.

*Q.* Can you tell us whether or not there was a profit or loss in the account up to April 2, 1932? *A.* Carleton & Mott. From the time that account opened until it closed there was a loss in that account. The loss in that account was \$3403.66.

*Q.* Now, will you give us the profit or loss of brokerage accounts of the Hauptmanns from April 2, 1932, to September 19, 1934? *A.* There was a loss of \$5728.63.

*Q.* And so that the total stock-market operations, so far as the exhibits are concerned, total a loss of how much? *A.* \$9132.29.

*Q.* Now, will you take your figures, exclude any assets at all, any moneys or any stockbrokerage accounts, or anything else that was in the possession of these defendants on April 2, 1932, direct your attention exclusively to such moneys and stocks as came into possession of the Hauptmanns as shown by Exhibit S-205, that is to say, those assets which came into their possession after the second of April 1932, and will you total those assets, adding to those assets that you have here given, or the moneys paid in, rather, \$14,600—is that the amount found in his garage? *A.* I don't remember the total. Take \$14,600 by way of illustration.

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MR POPE: We think the witness had better give us his own figures.

Q. Fourteen thousand six hundred dollars—assuming that this defendant had \$120 in gold in his home on September 19, 1934; will you add that figure—*A.* Yes sir.

Q. And a mortgage for which cash was paid in the sum of \$3750, which is in evidence—now, will you please take those three figures—\$14,600, which is in evidence, \$120 in gold, which is in evidence, \$3750 mortgage, which is in evidence, all of which you assume for the purpose of your calculation was shown to have come into his possession after April 2, 1932—add that to the figures which you have given and tell us how much money it shows. *A.* The total is \$44,486.

MR POPE: How do you reach that total?

Q. The amount deposited in the brokerage accounts were \$16,942.75; the total in the bank accounts was \$9073.25. Adding to that the three figures \$14,600, \$3750 and \$120, brings a total of \$44,486.

MR WILENTZ:

Q. That is exclusive of any loans made by this defendant, if he made any cash loans, is it not? *A.* Yes sir.

Q. Mr Frank, have you had an opportunity to total the amount of stock purchases since April 1932? *A.* I could give the figures for each account but I haven't totaled the three. I will have to do it by each separate account.

Q. All right, let's have them; name them. *A.* In 1929 the cost of stock purchased was \$1196; 1930, it was \$6913.13. May I correct that? That was the cost of stocks sold in that year; there were other purchases which were carried forward into the subsequent year, which I carry in my opening inventory for the next year.

Q. Well, all right, then give us the next one. Will you please answer the question: What was the next year? *A.* Nineteen thirty-one; the cost of stock sold in that year was \$2836.

Q. How about 1932? *A.* Nineteen thirty-two; the cost of stock sold was \$4905.25.

Q. Now 1933. *A.* The total cost of stock sold in that year in the Anna Schoeffler account at Steiner Rouse is \$256,442.15.

Q. All right. Will you give us the stock transactions for 1934? *A.* Seven thousand nine hundred and five dollars in the Richard Hauptmann account with E. A. Pierce & Company and \$3077.50 in the Steiner Rouse account in the name of Richard Hauptmann.

Q. Now, the stock transactions in 1933, totaling \$256,442.15; in whose name was that account? *A.* Anna Schoeffler.

Q. Now, these accounts that you have referred to from the very beginning of your testimony until this moment, are these accounts in the name or names of anybody else except Hauptmann, the defendant; his wife, Anna Hauptmann; or his wife, Anna Schoeffler? *A.* No sir.

*Cross-examination by MR REILLY:*

Q. Please turn to your records and find for me the very first evidence of a bank account from Mrs Hauptmann when she was Anna Schoefler? *A.* On October 27, 1924—

Q. Now, wait until we get that. What bank? *A.* The Central Savings Bank, Account No. 4180.

The cross-examiner carried the witness through a detailed description of the deposits made by Mrs Hauptmann in her account, prior to the kidnaping, and of the various transfers to and from the account from the year 1928 until Hauptmann's arrest.

Q. Now, let's go down to Wall Street. Let me have, please, the very first evidence you have of Bruno Richard or Anna Hauptmann dealing in stocks. *A.* On November 1, 1929, Richard Hauptmann opened a stock trading account with Carleton Mott & Company.

Q. That was some time before the kidnaping? *A.* Yes sir.

The witness testified that Hauptmann did his stock trading on margin. The cross-examiner carried him through a long series of individual transactions to show that the defendant would "buy on one day and sell on the next", in an attempt to show that the volume of money handled by the brokerage concern might appear large, when only a few thousand dollars in actual cash was involved.

Q. So we have him in the Street again in 1932, buying in August—did he buy any stock in August? *A.* No sir, he did not.

Q. Well now, what is this item of August eighth, if that is the date he opened his account with Steiner Rouse? *A.* Yes sir, he delivered into the account on that day 100 shares of Warner Brothers Pictures and 500 shares Curtiss-Wright.

Q. Now, Curtiss-Wright is a new name to me. When was that purchased? *A.* That was purchased on April 29, 1932, for \$600.

Q. What account? What firm? *A.* Carleton-Mott.

Q. He delivered the stock to Steiner Rouse & Company and opened an account that way, is that it? *A.* No sir. On April 29, 1932, he delivered in—no, on April 8, 1932, he delivered in \$600 cash into the Carleton Mott account and used it for the purchase of 100 shares of Curtiss-Wright; he then had that stock delivered to him and kept it until August eighth, when he opened an account with Steiner Rouse by delivering in that stock and also 50 shares of—100 shares—of Warner Brothers Pictures.

Q. Now, did he sell on May first? [1933.] *A.* One hundred shares Republic Steel for \$1129.50.

Q. When had he bought that? *A.* He bought that on April 25, 1933, for \$1062.50.

Q. And he makes a profit? *A.* Yes sir, he made a profit of \$67.

Q. Now, we have him selling on May first, haven't we—— A. One hundred shares General Electric.

Q. General Electric? A. For \$1829.50.

Q. And when had he purchased that; the twenty-seventh, hadn't he? A. Yes sir, for \$1762.50.

Q. So within four days after he buys it he sells it and makes a profit? A. Yes sir.

Q. It wasn't a very big profit; \$62, wasn't it? A. Sixty-seven dollars.

Q. Sixty-seven dollars. But he sold it and only held it three or four days? A. Yes sir.

Q. So he was constantly in the market trading, wasn't he? A. Yes sir.

Q. Now, we have him selling—— A. On May third he delivered in cash of \$2575.

Q. What was the condition of his account at the end of May 1933, please? A. At the end of May 1933 he had a credit balance of \$3841.79.

Q. What was his credit balance at the beginning of May? A. \$281.32.

Q. How much cash did he put in during the month? A. \$2575.

Q. So he put in approximately—he had two hundred and he put in twenty-five hundred, put in twenty-eight hundred for the month, right? A. Yes sir.

Q. And he had a balance coming to him at the end of the month of \$3800? A. Yes sir.

Q. So he made a thousand dollars profit, apparently, during the month? A. Yes sir.

Q. This man had quite a range of stocks, did he not? A. Yes sir.

Q. And in most of the stocks he made a small profit, did he not? A. At this period there was a profit.

Q. It is nothing unusual for a man to go into Wall Street with a five- or ten-thousand-dollar bank roll, is there, and buy and sell on margin if he can get credit? A. No sir; it is not unusual.

MR REILLY: I think that is all.

*Redirect examination by MR WILENTZ:*

Q. Mr Reilly has asked you about these profits. My recollection is that there hasn't been a word said about any losses with reference to the specific items directed to your attention. Were there losses? A. Yes sir, there were losses in excess of the profits.

Q. So that when you say "losses in excess of profits" do you mean that after these profits, profits, profits, the sum total was that there was a loss? A. Net loss; yes sir.

Q. In what amount did the losses exceed the profits from the period of April 2, 1932, until the date of Mr Hauptmann's arrest in September 1934? A. \$5728.63.

Q. So that when you gave all these figures about profits, did you take

them into consideration when you figured on the total result, the net result in the account? *A.* Yes sir.

*Q.* You gave him credit for these hundreds and these thousands of dollars of profit, did you? *A.* Yes sir. The losses occurred subsequent to the period that I discussed with Mr Reilly.

*Q.* We didn't get to the losses? *A.* No sir.

*Q.* I see. [Laughter.] But Mr Hauptmann got to the losses, did he not? *A.* Yes sir.

The witness said that whereas Hauptmann had never bought \$50,000 worth of stocks in any one month before the ransom payment, he bought such an amount "month after month" after that event. The Carleton-Mott brokerage account was inactive from February 1931 until April 8, 1932, when cash was delivered into it for the purchase of securities.

In July 1933, \$4500 was put into the Steiner Rouse brokerage account, and that amount was not balanced by any withdrawal of money from the bank accounts. In June of the same year a similar transaction brought \$2225 into the account, and in May Hauptmann had delivered \$2575 into the firm. In April a cash deposit with the brokerage firm of \$2500 was noted.

*Q.* I forgot to ask you one thing; between 1924 and 1932, in the bank accounts of the Hauptmanns, how much silver was deposited? *A.* There was a total of \$1.47.

*Q.* Approximately eight years—how much silver was deposited after the ransom money was paid on April 2, 1932, until the date of his arrest, September 1934? *A.* The figure is \$453.25.

#### BARNEY L. FINK

*Direct examination by Mr WILENTZ:*

The witness, commercial manager for the Kingsbridge office of the New York Telephone Company, testified that Dr J. F. Condon's telephone number, before April 12, 1932, was Sedgwick 3-7154. In April of that year it was changed to a nonpublished number, Sedgwick 3-1177.

#### EDWARD F. MORTON

*Direct examination by Mr WILENTZ:*

Morton was construction timekeeper for the Reliance Property Management, at the Majestic Apartments, in 1932. He identified the employment record card of Bruno Richard Hauptmann.

[*The card was received in evidence, together with the re-employment record book kept by the witness.*]

*Q.* On April second, the date alleged as the date when the ransom money was paid, tell me whether he (Hauptmann) worked that day. *A.* No sir, Bruno Richard Hauptmann did not work on April 2, 1932.

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Q. On Monday did Mr Hauptmann return to work? *A.* Yes sir, he did.

Q. And at the end of that day did he give any notice that he wasn't going to return again? *A.* No sir.

Q. Did he return again? *A.* No sir, at no time.

Q. Was he discharged or did he quit? *A.* He resigned of his own accord.

### *Cross-examination by MR REILLY:*

Hauptmann started to work at the Majestic Apartments first on March 21, 1932. He was engaged at the rate of \$100 a month. The cross-examiner directed his questioning to the timecard made out by the witness, in which, under the various dates of the month, a check mark indicated that an employee was at work, a zero indicating that he did not work.

Q. I am asking you whether or not you have a check there for April the first? *A.* Yes sir, I have.

Q. And you have a naught for April the second, right? *A.* Yes sir.

Q. Then you have a check that he worked on the third and fourth, haven't you? *A.* Yes sir.

Q. Underneath the naught, which I suppose indicates that he didn't work, there is a check mark, isn't there? *A.* Underneath the naught?

Q. In other words, there was a check mark there and then you put a naught over it? *A.* I don't notice that.

Q. You don't notice it. Then you drew the line and wrote at the side something, didn't you? *A.* Yes sir.

Q. When do you say Hauptmann resigned? *A.* On April 4, 1932.

Q. What day of the week would that be? *A.* That was on a Monday, sir.

Q. What day was Sunday? *A.* April third.

Q. Did any carpenters work on Sunday? *A.* No sir.

The witness said that whether a carpenter worked or not, he was checked as being "present" on Sundays, this system being used to facilitate his time records. On redirect examination by Mr Wilentz he reiterated that Hauptmann's rate of pay was \$100 a month.

### CECILE M. BARR

#### *Direct examination by MR WILENTZ:*

Mrs Barr testified she was cashier for Loew's Sheridan Square Theater and was so employed in November 1933.

Q. Do you know the defendant, Bruno Richard Hauptmann? *A.* Yes sir; I have seen him before.

Q. When was the first time you saw him? *A.* When he purchased a ticket at the window, November 26, 1933.

Q. November 26, 1933? *A.* Yes sir.

Q. What was the occasion that recalls to your mind the fact that he purchased a ticket at your window on the night of November 26, 1933? *A.* Well, he came up. I wasn't busy at the time; it was about nine-thirty in the evening, Sunday evening, and he threw a five-dollar bill in at me, which was folded three times in eight parts.

Q. Just one minute now. I have got to find the five-dollar bill. Well, if there is no objection we will use the ten. Will you show us what you mean on this ten-dollar bill, when you say "folded in eight parts"? *A.* It was folded in half [*indicating with the bill*].

Q. Just a minute. Lengthwise in half, still retaining its length, is that what you mean? *A.* Yes sir.

Q. Then what? *A.* Then again in half.

Q. To one half its length? *A.* And then a third time [*indicating with the bill*].

Q. All right. Now tell us what did he do about the bill that was folded in eight parts? *A.* He threw it in at me, threw it in at the window as I looked up. And while I was opening it out he stood there looking at me and I said, "Well what do you want?" He looked up at the sign. We have three-price tickets. He looked up at the sign and said, "One forty." All that time I looked at him.

Q. Did you give him change for the five dollars? *A.* Yes sir.

Q. What did you do with the five dollars? *A.* I wrapped it for the bank.

Q. Together with the rest of your deposit? *A.* Yes sir.

Q. Who took that money to the bank for deposit? *A.* Mr Simons, the assistant manager.

Q. So that the five-dollar bill which you got from Hauptmann was given as part of the deposit to be made by Mr Simons, is that it? *A.* Yes sir.

Q. Did you see that bill the next day? *A.* Yes sir.

Q. In whose possession? *A.* Lieutenant Finn.

Q. Was Corporal Horn, of the New Jersey police, with him? *A.* Yes sir; no sir, I don't think he was.

Q. Now, with reference to the date; are you certain about the date? *A.* Yes sir; it was Sunday night, November twenty-sixth.

Q. Nineteen thirty-three? *A.* Yes sir.

Q. And with reference to the man who gave you that bill, are you certain as to that? *A.* Yes sir.

*Cross-examination by MR REILLY:*

Q. I suppose you can remember everybody that you saw go into the theater? *A.* No sir.

Q. And everybody that went in 1933? *A.* No sir.

Q. How many five-dollar bills do you suppose you took in during 1933? *A.* I couldn't account for them.

Q. How many did you take in in 1933? *A.* Couldn't possibly remember that.

Q. Now, the man threw the bill in folded? *A.* Yes sir.

Q. The twenty-sixth of November 1933, at nine-thirty, you say? *A.* That is right. About that.

Q. How was he dressed? *A.* He had on a dark suit, had a dark hat pulled way down over his forehead.

Q. A slouch hat down over his forehead? *A.* Yes sir.

Q. Did he have his overcoat up? *A.* He didn't have any overcoat on.

Q. Sure about that? *A.* Yes sir.

Q. Was it a cold night? *A.* Yes sir.

Q. Very cold? *A.* Our record just says cold, clear and cold.

Q. Your record? *A.* Yes sir.

Q. What does that mean? *A.* Well, we put down the weather every day.

Q. Did you put down the weather or did somebody else put it down? *A.* I put it down.

Q. "Clear and cold"? *A.* "Clear and cold."

Q. A man with no overcoat on? *A.* Yes.

Q. There were a great many people in that neighborhood, who go to the theater, who don't wear overcoats, aren't there? *A.* Sometimes they run in without overcoats.

Q. Now, did you ever tell anybody since you got into this case that you couldn't remember the man, but that it would be a good ad for the Sheridan Square Theater? *A.* No sir; never did.

Q. Haven't hundreds of people stopped at that window since then and asked you whether you are the girl in the Lindbergh case? *A.* I have had several people stop and ask me; yes sir.

Q. Didn't you go to the manager and ask him whether or not he might be able to get you some moving-picture work in Hollywood as a result of the Loew's theater—wait a minute. Did you or didn't you? *A.* I did not.

*Redirect examination by MR WILENTZ:*

Q. The day after the five-dollar bill was passed and the police came to you, did you give the police the best description you could—the very next day? *A.* Yes sir.

Q. Do you remember the name of the picture that night? *A.* Oh yes, sir. It was Walter Winchell's *Broadway Looking through a Key-hole*. [Laughter.]

[*The Court again severely admonished the spectators against another outburst.*]

WILLIAM M. CODY

*Direct examination by Mr WILENTZ:*

As an employee of the Corn Exchange Bank he received a deposit from Loew's Sheridan Square Theater on November 27, 1933, in which the five-dollar Lindbergh ransom bill was included. The bill was put aside upon the witness's discovery that its serial number checked with a number on the ransom-bill list, and was later turned over to Lieutenant Finn.

## FIFTEENTH DAY

Flemington, N. J., January 22, 1935.

**L**EWIS J. BORNMANN recalled.

*Direct examination by MR WILENTZ:*

Detective Bornmann identified a chisel as one found in the early morning of March second on the Lindbergh estate, near the spot where the three-piece ladder was found.

[*The chisel was received in evidence as State's Exhibit S-210.*]

The witness testified that the ladder was "substantially" in the same condition in which it was found and that it was "identically the same ladder."

**MR WILENTZ:** We offer the ladder in evidence.

**MR POPE:** And, of course, we object to the introduction of the ladder in evidence for the reasons which have already been indicated to the Court. This ladder, as we understand it, is a piece of property that was discovered somewhere on the Lindbergh estate. Afterwards it was taken by the state police to Wilbertha, the state police school, or station, and there it was entirely torn apart. The evidence in the case is that the ladder has, since its discovery, been in the possession of many different people; that it has been in many different sections of the country; that it has been to Washington, among other places; that it was at one time in the possession of a man by the name of Doctor Hudson. That it has been entirely taken apart and that there has been an attempt to reassemble it. The wood expert, whose name I have forgotten for the moment, testified that the ladder was taken apart, that all the nails were taken out of it and that the nails were given to a metallurgist. He took the nails to his laboratory and he had them in his possession for several weeks; that he afterwards returned the nails to the state police. The wood expert testified that either he or some other person in his immediate presence reassembled the ladder, putting the nails back as they were handed to him, but that he was unable to testify that the same nails were handed to him or that they were placed back in the same location where they originally were; that he took the nails as they were handed to him to another person and he put them into holes in the ladder and reassembled it. The ladder has been cut in two, at least one of the uprights of one of

the sections of the ladder has been cut in two, as testified to by this witness. It has been materially altered in that respect. But, sir, our understanding is that any property that is found at the scene of the crime which can be in any way connected with the defendant and the commission of the crime may be received in evidence provided it is shown to the Court that the property is in the same condition that it was at the time it was discovered and providing the witnesses who have had possession of that ladder are brought into court and each testify as to what they did with it, how long it was in their possession and to whom they turned it over. In other words, the entire history of the property must be traced and its custody into each person, and what that particular person did with it, if anything, through each and every person down to the time it is produced and offered in evidence. And each person who had the custody of the property must come in court and testify that he made no alteration in it, that it is in the same condition or substantially the same condition that it was when he received it. . . . There is a still further and even a stronger objection yet. There is no connection between this ladder and the defendant here on trial. No one has even suggested that this ladder was ever in the possession of this defendant. No one has even suggested that he had anything to do with building it; and it is therefore immaterial, irrelevant, and we submit that it should not be introduced in evidence at this time.

MR WILENTZ: Does your honor want a reply?

THE COURT: I am wondering whether Mr Pope has overlooked the testimony of an old gentleman to the effect that on March the first, I think it was, he saw the defendant in the possession of this ladder. Have you overlooked that?

MR POPE: But even if he did, even if he did testify to seeing the ladder in the car, he did not recognize this ladder; he did not say that it was this ladder. . . .

THE COURT: I think I will hear the attorney general.

MR WILENTZ: We have proven the possession of this ladder from the very time it was found upon the Lindbergh premises, within a short time after this crime was committed, up to the moment it came into this courtroom. Yes, there have been changes in that ladder made from time to time, for the very purpose and with the intention that it could someday be brought into this very courtroom to help a Court and jury pass upon the innocence or guilt of a person charged with the crime in question. But we have explained these changes. . . .

THE COURT: I feel constrained to admit this ladder in evidence and it will be admitted.

*[The ladder was received in evidence and marked State's Exhibit S-211.]*

The witness identified a dowel pin as having been found near the ladder.

[*The dowel pin was received in evidence over defense objections.*]

THOMAS S. SISK [*recalled*]

*Cross-examination by MR REILLY:*

The witness, a special agent for the Division of Investigation of the United States Department of Justice, said that the box in which the ransom money was turned over to the ransom negotiator had never been found. He admitted that Dr Condon had made a phonographic record, imitating Bruno Richard Hauptmann's voice, and that this record was in the possession of the Department of Justice. He was willing to produce the record, but it "would take a couple of days." He had learned that a plaster cast of a footprint (at St Raymond's cemetery) had been made but said "there is no positive connection between that footprint and the man who received the ransom money." If the attorney general granted permission (all records of the department being in his custody) he would be willing to furnish the official reports made on the subject of the footprint and cast.

JAMES J. FINN [*recalled*]

*Direct examination by MR WILENTZ:*

The witness, a police lieutenant, took the five-dollar ransom bill found in the Loew's Sheridan Square Theater deposit to Mrs Cecile Barr and exhibited it to her on November 27, 1933.

[*The five-dollar bill was received in evidence.*]

ELSIE WHATELEY [*recalled*]

*Direct examination by MR WILENTZ:*

Mrs Whateley was in the company of Betty Gow when Miss Gow picked up the thumb guard in the driveway of the Lindbergh estate. She identified Exhibit S-39 as the suitcase that had been in the nursery on the night of the kidnaping.

[*The exhibit, previously marked only for identification, was then received in evidence as S-214.*]

*Cross-examination by MR REILLY:*

The witness and Miss Gow both saw the thumb guard at the same moment and both reached for it, but Miss Gow picked it up first.

## MILLARD WHITED

*Direct examination by MR WILENTZ:*

In 1932 the witness lived about a mile from the Lindbergh estate. In 1932, and particularly in February 1932, the witness knew all the people who lived in and about that vicinity.

Q. In February 1932 did you see any strangers in that vicinity? *A.* I did.

Q. Tell me particularly, did you see the defendant, Bruno Richard Hauptmann? *A.* I did.

Q. When did you see him? *A.* As near as I could, to my best knowledge, around the eighteenth of February 1932.

Q. Did you see him again after the eighteenth of February? *A.* I did.

Q. When to your best recollection? *A.* Between the twenty-fifth and twenty-seventh of February.

Q. Was that the February before the Lindbergh crime? *A.* It were.

Q. Now, tell us the first time that you saw the defendant Hauptmann; where it was and under what circumstances. *A.* I was coming home for dinner with my car and he came out nearly on my ground or, I would say, within two or three feet, one way or the other—I could show you the very spot if I were there—and he stepped out to the side of the road when I came face to him, with the car, and I saw him when I was coming to him, and when I passed, through my window, I looked at him and wondered why and where he came from.

Q. Through the window of what? *A.* Out of my car window; that is, the window was down, but out of the left-hand side of the car.

Q. Now, the second time you saw him, where was he and where were you? *A.* He was on the crossroad that leads to Zion and I was coming up the road with the truck and trailer, and I saw him on the crossroads standing.

Q. How far away from him were you when you saw him that time? *A.* Not quite as far as from here to the railing.

Q. Will you give us your judgment about how many feet you think that is? *A.* Not over six.

Q. Now, in the early morning of March 2, 1932, being the early hours of the morning after the Lindbergh child had been taken, did you report to troopers or investigators that you had seen a stranger? *A.* I did.

Q. Now, is there any doubt in your mind at all with reference to the man that you saw on those two occasions in February 1932? *A.* No sir.

Q. Who was at your home the night, the early hours of the morning of March second, when people came to ascertain whether you had

seen any strangers about the premises? *A.* There was three that I could name, but the other two I couldn't recall.

*Q.* Who could you name? *A.* Mr Lindbergh, Wolfe of the troopers and just a minute—Keening.

*Q.* Keaten? *A.* Keaten.

*Q.* And two others? *A.* Two other gentlemens.

*Q.* Some time around the twenty-fifth or between the twenty-fifth and the twenty-seventh, or whenever it was (you say you saw him the second time in February 1932) tell us what he wore, if you remember. *A.* A gray suit and a gray felt hat.

*Q.* How did he wear the hat? *A.* Just tipped a trifle forward.

*Q.* When you say "a trifle", did it go over his forehead? *A.* Just about like that. [Illustrating.]

*Q.* Did he have an overcoat on? *A.* He had a coat of some description hanging on his arm.

*Q.* When you saw him was he in the roadway or near the bushes or what? *A.* Just stepped out of the edge of the bushes.

*Q.* Did you read the papers with reference to his arrest? *A.* No sir.

*Q.* Now, I don't want to offend you, Mr Whited, but do you mind if I ask you the question: can you read? *A.* A little, not much, not enough to understand the paper.

*Cross-examination by MR FISHER:*

*Q.* When did you buy your farm over in the Sourland country? *A.* The latter part of 1929.

*Q.* When did you sell your farm? *A.* The last part of 1932.

*Q.* Who did you sell it to? *A.* I can't answer that question because I can't remember his name.

*Q.* You don't know who you sold it to? *A.* I can't—

*Q.* How much did you get for it when you sold it? *A.* \$2150.

*Q.* Now, you say you bought that in the fall of '29? *A.* I did.

*Q.* Do you remember testifying in the Bronx? *A.* I do.

*Q.* I ask you if this was your testimony: "Question: How long have you lived on that farm? Answer: From the fall of 1930." Now, which time were you correct—now or in the Bronx? *A.* I am correct on 1929.

*Q.* You were mistaken? *A.* Because I have looked it up.

*Q.* You were mistaken in the Bronx? *A.* I was mistaken on one year, if that is true there.

*Q.* Now, how far do you say now it was from the Lindbergh gate the second time you saw the man whom you identify as Mr Hauptmann? How far away from the gate? *A.* The first time?

*Q.* Yes—the second time. *A.* The second time, about a mile and a half.

*Q.* Do you remember testifying in the Bronx that it was three quarters of a mile? *A.* No.

*Q.* Well, if you testified in the Bronx that it was three quarters of a mile,

were you mistaken at that time? *A.* To the best of my knowledge I didn't testify to that, that it was three quarters.

*Q.* Now, where were you working on the eighteenth of February? *A.* Where was I working?

*Q.* Yes. *A.* That I couldn't answer, whether I was working or not.

*Q.* What day is it that you say you saw Mr Hauptmann up there the first time? *A.* I said around the eighteenth.

*Q.* It didn't impress you at the time you saw this man that there was anything unusual about it, did it? *A.* Only him being a stranger in that community.

*Q.* Well, did you know Ollie Whateley? *A.* No.

*Q.* Did you know Colonel Lindbergh by sight at that time? *A.* No, I didn't know Colonel Lindbergh by sight.

*Q.* In the Bronx you testified there was nobody in that territory you couldn't recognize, didn't you? Didn't you say up in the Bronx you knew every person there? *A.* Yes.

*Q.* There are two people—— *A.* I knew where he lived and who belonged there.

*Q.* That is right; there are two people you couldn't identify if you met them face to face in the highway? *A.* Yes, I could if I met him face to face in the highway because I saw his picture enough times to know.

*Q.* Mr Whateley? *A.* Mr Lindbergh.

*Q.* But to that extent there was one man in that neighborhood that you didn't know by sight, wasn't there? What is the answer to that? In the Bronx you were asked the question: "And did you know everybody that lived in that vicinity? Answer: I did." *A.* I do still say so; everybody that owned a place through there.

*Q.* Well now, who called you out of bed the night or the early morning of March the second? *A.* No one called me out of bed.

*Q.* Who came to your house? *A.* Mr Wolfe.

*Q.* Hopewell Mr Wolfe, or state police man? *A.* State police, Mr Wolfe.

*Q.* Who else? *A.* Colonel Lindbergh.

*Q.* Yes; who else? *A.* And Mr Keaten.

*Q.* Mr Keaten. Who else? *A.* I couldn't tell you who the other two gentlemens were.

*Q.* I see. Who did you tell about seeing this man on the mountain first? *A.* Mr Keaten.

*Q.* Mr Keaten. Are you quite sure of that? *A.* I am.

*Q.* Do you remember testifying in the Bronx—— *A.* Yes—and I wish to rectify that because I got the two men mixed in my knowledge.

*Q.* Yes, and you gave another name over there that you told the story to first? *A.* I did, because the name——

*Q.* Well——

MR WILENTZ: Just a minute. Let him answer the question, please.

Q. I wish to rectify that by the two men's faces that is here. I would like to rectify that mistake.

MR FISHER:

Q. Yes. Well, I will give you plenty of chance to rectify it, sir. You told over there under oath that you gave the information to Captain Wallace, didn't you? A. Yes.

Q. And that he was one of the crowd in the house? A. Yes.

Q. Now, Mr Whited, when the officers arrived there that night, whether it was Captain Wallace or whether it was Lieutenant Keaten, when the officers arrived, did they tell you what they were there for? A. Not exact.

Q. Now, as a matter of fact, didn't you think they were there in connection with a robbery that occurred in the village of Blawemburg on the evening, Sunday evening, before the kidnaping? A. I did.

Q. Yes. And you thought they were there looking you up as a suspect in that robbery, didn't you? A. I will explain why I thought of that: simply because when I was going down the road I got stuck fast with the truck and trailer. I had to send the brother back home after a team of horses to pull me out, and while I was there the boss on the road was telling me about this robbery.

Q. Which robbery? A. About this robbery at Blawemburg.

Q. And how far is Blawemburg from your home? A. I would say about seven or eight miles.

Q. I will ask you, did you testify in the Bronx in reference to this visit of the police and Colonel Lindbergh, at from three to four o'clock in the morning: "Naturally what was in my mind was that they came there thinking I was a thief." Did you so testify? A. I think I did.

Q. And that is what you thought, wasn't it, when you came in there? A. To a certain extent.

Q. Yes. And while you were there, at three o'clock in the morning, with four or five policemen, thinking they were there because you thought you were a thief, it was then that you made mention of seeing a stranger in the hills, wasn't it? A. It were not at three o'clock in the morning when they was to my place.

Q. All right, it was at four o'clock, or whatever time it was; when they were in there, thinking you were a thief, as you thought, wasn't it then that you first mentioned this man that you had seen up there in February 1932? A. Not until I was asked.

The witness admitted he was mistaken in his testimony in the Bronx extradition hearing, when he said he had given his information to Captain Wallace of the New Jersey State Police, and said he wished to "rectify" the mistake. He could not identify two of the men who interviewed him on the morning of March 2, 1932, although he had talked with them more than fifteen minutes. He could identify the defendant, however,

although he admitted he had seen him for only a few minutes. He had a vague recollection of the speed at which he was going in his truck when he saw the defendant, but thought it might have taken him four minutes to travel five hundred feet.

*Redirect examination by MR WILENTZ:*

Q. Mr Whited, I think I asked you before; you said you couldn't read very much, didn't you? *A.* That's right.

Q. Did you go to school at all? *A.* I went until I was eleven years old.

Q. This Blawenburg, is that the place where the robbery—do you know of your own knowledge whether or not a man admitted and was convicted of that robbery? *A.* He was.

Q. On the very morning after this kidnaping and this crime you did give a statement verbally, that is, you spoke to the police officers and told them the story you are telling now? *A.* Yes sir.

### CHARLES B. ROSSITER

*Direct examination by MR WILENTZ:*

In the year of 1932 the witness was a salesman for the Perfect Foods Company, traveling through the state.

At about 8:00 P.M. on the Saturday before the kidnaping he saw the defendant on Route 31, near the Princeton airport. Hauptmann was at the rear of a car parked from a hundred to a hundred and fifty yards north of the airport. The witness said he stopped to see if he could render any assistance.

Q. And did you get out of your car then? *A.* I did.

Q. And what did you do? *A.* I walked to the rear of his car.

Q. Did you speak to him? *A.* I did.

Q. What did you say to him? *A.* I wouldn't say verbatim what I said to him—to the effect of whether I could help him any.

Q. What did he say? *A.* He said he was all right; he didn't need any help.

Q. Did you then proceed on your way? *A.* No, I stood there and looked the man over pretty well.

Q. What sort of a hat was he wearing? *A.* A slouch hat.

Q. Now, when was the next time that you saw this man or a picture of him? *A.* The next time I saw a picture of him was the day after his arrest, September twentieth.

Q. And when you saw that picture did you call it to the attention of the authorities? *A.* I did not at once.

Q. When did you call it to their attention? *A.* On the twenty-second of September.

Q. And as a result of that did you go over to see him in the Bronx? *A.* I did.

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Q. Did you see him there? *A.* Yes.  
Q. Now, you have been subpoenaed by the State, have you not, to this trial? *A.* That is right.  
Q. Have you any interest in this case in behalf of either the complaining witness in this case, Colonel Lindbergh, or the State, or the state police, or anybody else? *A.* No, only interested in justice.

### *Cross-examination by MR REILLY:*

Q. This man didn't signal to you to stop? *A.* No.  
Q. He didn't indicate that he wanted any assistance? *A.* No.  
Q. Was he near any house? *A.* Yes, directly opposite a house.  
Q. What is the number of the house? *A.* I didn't go to the house to look for a number.  
Q. What kind of a house was it? *A.* Well, it is a very, very large house; I would say that, to the best of my knowledge, it is a three-story house.  
Q. Was it lighted up? *A.* That I didn't look to see at that time.  
Q. Now, what other light was there? *A.* No other lights except mine.  
Q. Your headlights? *A.* That is right.  
Q. How close did you come to the car in front of you? *A.* Well, within ten to fifteen feet.  
Q. You walked up to this man; is that correct? *A.* That is right.  
Q. How was he dressed? *A.* Well, at that time he had on an overcoat, I would say, I did say was black, and a light suit which I described as being gray.  
Q. What kind of a shirt? *A.* Couldn't see because he had the collar pulled up covering the shirt.  
Q. He had his collar up around his neck? *A.* No, he didn't have the collar up, but it was pulled so close that you couldn't distinguish the color of the shirt.  
Q. A fedora hat? *A.* A slouch hat, if that is what you call a fedora.

## MAX RAUCH

### *Direct examination by MR WILENTZ:*

The witness was owner of the house at 1279 East 222nd Street, occupied by Bruno Richard Hauptmann and his family, who moved into it on October 15, 1931. At the time the defendant moved in the attic floor was "complete." He had been in the attic himself on October 5, 1931. The next time he had occasion to go into it was about two weeks after Hauptmann's arrest.

Q. Was the attic floor complete at that time? *A.* No.  
Q. What part of it was missing? *A.* I missed a strip of board—rather, I would say, nine feet in length; not the entire board, but a part of it.

*Q.* Who constructed your house? *A.* Well, I was the contractor myself, but the carpenter work was done by Oscar Koski.

*Q.* When he constructed your house did he complete the entire attic floor or part of it? *A.* Well, he completed the center of it; the rear end was not necessary to complete because it wasn't high enough to walk on.

*Q.* And no boards were missing from it? *A.* No.

*Cross-examination by MR POPE:*

*Q.* When was this building built? *A.* It was built in 1926.

*Q.* And where the piece of flooring seems to be missing from the end of this piece to the wall, was there ever a board there to your knowledge? *A.* The entire strip that belonged to it.

*Q.* Here is where the electric cable goes down, isn't it? *A.* Yes.

*Q.* And wasn't that left loose there? *A.* Well, this is what they call the preliminary work from the electrician down there. It was down there before. The boards came afterwards.

*Q.* And was not the board left out at that place because of the cable going down? *A.* No sir.

### JOSEPH JENNINGS DORN

*Direct examination by MR WILENTZ:*

The witness identified himself as owner of a lumber mill at McCormick, South Carolina. In November 1931 he made a shipment of lumber, including some one-by-four boards, to Halligan & McClelland, in New York. He identified a bill of lading for the lumber and said the lumber had been dressed by his planers. He identified a photograph of the interior of his mill, showing certain machinery.

*Q.* Now, Senator, in that machine are there certain pulleys and knives which you use to cut lumber? *A.* Yes sir.

*Q.* At the time you bought it did it take standard pulleys? *A.* No sir, it did not.

*Q.* Was it necessary to have special pulleys on it? *A.* Yes sir.

*Cross-examination by MR POPE:*

The witness said the knives on the planer were sharpened or "dressed" usually after about 180,000 feet of lumber had been run through. At the time of the shipment to the New York firm his mill was dressing about 40,000 feet a day, running six days a week.

*Redirect examination by MR PEACOCK:*

The witness identified a picture of the special pulley used on his planer.

*Q.* Was Mr Koehler down to your plant? *A.* Yes sir.

*Q.* Did you exhibit to him that pulley? *A.* Yes sir.

*Q.* Did you give him a sample of lumber that was cut? *A.* Yes sir.

WILLIAM M. SCHULTER

*Direct examination by MR PEACOCK:*

The witness was a bookkeeper for Halligan & McClelland. A carload of lumber shipped to his firm from the Dorn lumber mill had been sold to the National Lumber & Millwork Company, in the Bronx.

*Cross-examination by MR POPE:*

The witness had no personal knowledge of the transaction, except through car receipts and invoices.

DAVID HIRSCH

*Direct examination by MR PEACOCK:*

Q. Mr Hirsch, you are connected with the National Lumber & Millwork Company of New York? *A.* Part owner, sir.

Q. Mr Hirsch, do you know the defendant, Bruno Richard Hauptmann? *A.* Yes sir, I know Mr Hauptmann.

Q. Did he work for your company at any time? *A.* Once in a while.

Q. In 1931 and 1932 did Hauptmann buy lumber from you at different times? *A.* Yes, a number of times.

Q. Do your records show the last purchase he made from you? *A.* Yes sir.

Q. Will you look at them [*handing ledger to witness*] and give me the date and amount he paid for lumber? *A.* I have an entry here in the ledger as of December twenty-ninth.

Q. He purchased lumber December twenty-ninth, and how much did he pay for it? *A.* Nine dollars and thirty-two cents.

*Cross-examination by MR POPE:*

Q. . . . there was nothing unusual about Hauptmann, the carpenter, purchasing lumber from you in December 1931? *A.* Not at all. [*The Court overruled Mr Pope's plea to have the witness's testimony struck from the records on the grounds that he had no personal knowledge of the defendant's purchase of lumber.*]

LAWRENCE MILLER

*Direct examination by MR WILENTZ:*

The witness was a yard man for the National Lumber & Millwork Company. In September 1933, practically a year before Hauptmann's arrest, he was visited by Arthur Koehler, to whom he gave a sample of one-by-four South Carolina pine. Koehler again visited the yard in December 1934 and obtained another sample of the same type of wood, which came from the same bin from which the previous sample was taken.

## SIXTEENTH DAY

*Flemington, N. J., January 23, 1935.*

FRANK A. KELLY [*recalled*]

*Cross-examination by MR REILLY:*

**T**HE WITNESS demonstrated his method of taking fingerprints. If the objects in the nursery had been wiped off with a cloth, no fingerprints would show. In all his examination of the nursery he found no prints "of value." He found "hand marks" on the crib, which could not be compared with Betty Gow's fingerprints because they were blurred.

*Redirect examination by MR WILENTZ:*

**Q.** If a man carried this ladder to the Lindbergh home and he carried it with gloves and he didn't take the gloves off, would he leave his fingerprints on it? **A.** Absolutely not.

JOHN A. LYONS

*Direct examination by MR WILENTZ:*

The witness was an inspector in the New York City Police Department. He visited the Hauptmann home on September 19, 1934, and in the presence of the defendant found in a writing desk a piece of note paper. The paper was received in evidence.

[NOTE: *The paper was of the same type as that used for the first ransom note.*]

LEWIS J. BORNMANN [*recalled*]

*Direct examination by MR PEACOCK:*

On September 26, 1934, the witness, accompanied by other police officials, made a search of the Hauptmann house to gather evidence against the defendant. The search took him to the attic, to which entrance was gained through a small linen closet.

**Q.** Now, when you got into the attic, what did you find? **A.** We first made a search for money and during this search I found that all the

floor boards were not of the same length, that is, the one in the southwest corner; a portion of it had been removed.

Q. Referring to Exhibit S-215, show the jury the condition that you found in that attic. *A.* Well, this is the southwest corner, this is the south side, and this is the west side [*indicating*] and the end board, approximately eight foot of it had been removed—

MR REILLY: Now, I object to that as calling for a conclusion; he can say there was no board there.

MR PEACOCK:

Q. Well, there was no board there, was there? *A.* There was no board, and upon examining it further I found that there were nail holes still in the beams, and between the seventh and eighth beam here there was a small quantity of sawdust; it was also on this adjoining board there, a small indentation made by a saw where, when this board had been sawed off, the saw went into it.

Q. How deep was that saw mark, Mr Bornmann? *A.* Approximately a quarter of an inch.

Q. Now, were you at the same building on October ninth with Mr Koehler? *A.* Yes sir.

Q. What did you do when you and Mr Koehler arrived there? *A.* We checked the nail holes in the beams with nail holes in what we know as Rail 16 in the ladder.

Q. Show me Rail 16. *A.* [*The witness indicated one of the rails of the ladder, Exhibit S-211.*]

Q. Where are the nail holes in Rail 16? *A.* Rail 16; you notice there are two here and one here. [*Indicating.*]

Q. Referring to the bottom of the ladder? *A.* Referring to the bottom of the ladder. There is another one here coming toward the top and another one here coming almost to the top.

Q. You had this railing and you checked it with the flooring of Exhibit S-215; is that correct? *A.* That is correct.

Q. I show you a photograph with Rail 16 on the floor; is that correct? *A.* Yes sir, it is.

Q. Now show the jury where those nail holes of Rail 16 check with the joist. *A.* There is one of the nail holes right here and the other one is down here; you see the shadow of it, and down here are the other two.

Q. They are the same nail holes that you have just shown the jury in Rail 16; is that correct? *A.* They are.

Q. Now, did you check the nails? *A.* Yes sir.

Q. In the holes through Rail 16 to the holes that were in the joists? *A.* We placed four cut nails in this Rail 16 and placed it upon the beams. Those nails fitted perfectly into the holes that were still in the beams here.

Q. What was the slant of those nails? *A.* They were on a slight angle, sort of toed in.

Q. Necessary to pound the nails in or could you push them in with your finger? *A.* We pushed them in with our finger.

Q. What do you say as to the grain in Rail 16 and the grain that was still attached to the floor? *A.* It appeared to match perfectly.

Q. Did Mr Koehler match them? *A.* Yes sir, he did.

Q. Now, did you obtain any lumber from the garage which you gave to Mr Koehler for examination? *A.* Yes sir. After continuing the search of the attic on September twenty-sixth we then went to the garage.

Q. I show you a triangular piece of wood and ask you where you obtained that? *A.* We obtained that—it was a bracket used to support a shelf on the north side of the garage.

Q. Was that afterwards delivered by you to Mr Koehler? *A.* Yes sir, it was.

*[The triangular piece of wood was marked State's Exhibit S-225 for identification.]*

Q. I show you a package of nails and ask you whether you obtained them? *A.* These are ten cut nails which Police Carpenter Cramer removed at my request from this board here.

Q. Referring to what board? *A.* Part of the flooring on the south side of the building.

Q. Referring to the board on the south side of the picture, is that what you mean? *A.* Yes sir.

Q. Now, I show you a board and ask you whether or not you took this from the attic of the Hauptmann home? *A.* Yes sir, I did. That is part of this section—that board runs from here, six foot eight and a half of it.

Q. And that was removed by whom? *A.* It was removed by me.

Q. Was it the same color that it now is? *A.* Yes sir.

Q. Now, when you first compared the Rail 16 of the ladder, as it is compared in the photograph, what was the color of the Rail 16? *A.* It appeared to be the same color.

*[Piece of board received in evidence and marked Exhibit S-226. Bracket received in evidence and marked Exhibit S-227.]*

*Cross-examination by MR POPE:*

Q. What kind of nails did you say they were that were in the boards up in the attic? *A.* They are known as cut nails.

Q. And a cut nail is the old-fashioned square nail; is that what you mean? *A.* Yes sir.

Q. Not the round nail like there is in this piece? *[Indicating.]* *A.* Old-style roofing nails.

MR PEACOCK: Mr Pope, pardon me one moment. I want to offer this photograph in evidence, your honor, which has been referred to by the witness.

THE COURT: If there is no objection it will be admitted.

[Photograph marked S-228.]

MR POPE: I thought it was in yesterday.

MR PEACOCK: No. The one that was in yesterday didn't have this rail attached.

MR POPE: Well, we object to this photograph because it is a photograph that was manufactured by the police to show certain conditions and positions of a board which they wanted to show, and it was not a natural condition. It does not represent the true condition of the house at the time the police went there and inspected it, but in order to make it show what it shows there now they had to do a little maneuvering with a piece of board and some other things. Of course that is not representative of a true condition which would be binding upon this defendant. We object to it.

THE COURT: This photograph has already been admitted in evidence.

This motion in effect is to strike it out. I don't see that I would be justified in striking it out. I will allow it to stand.

*Cross-examination by MR POPE: [continued]*

Q. Well, referring to this, so that we have it in the record, this photograph, Exhibit S-228, before this photograph was taken, there was an empty space from the end of the floor board extending toward the top of the photograph and to the side of the attic, wasn't there? *A.* There was a space there of about an inch and a quarter.

Q. There was nothing there between the end of this floor board and the end of the building, was there, until you put the piece of board in there? *A.* No sir; it was about eight foot—there was about eight foot of that missing.

Q. And then what you did was to take one of the runners, one of the sections of the ladder— *A.* Rails.

Q. Well, rails then. I call it runner; whichever you call it. We will call it rails. Take it up into the attic and lay it down on the joists; then have it photographed? *A.* That is correct.

Q. Now, even then, the rail which you took from the ladder did not reach from the end of the floor board to the end of the building, did it? *A.* No sir. There you can see a space of about an inch and a quarter, and down to the end—

Q. Well, it is a space of about thirty-six inches, isn't it? *A.* Well, about eight foot of it had been taken out of that and the rail is six foot eight and a half inches.

Q. So the holes in the ladder were so loose that you could easily put the cut nails in with your fingers; is that right? *A.* With thumb pressure you could push them in.

Q. Did anybody experiment with those nail holes before you attempted to put it down on the floor—that you know of? *A.* No sir. I had

turned the cut nails over, taken from that section of board here, and turned them over to Mr Koehler, and he had tried them into the Rail 16 holes.

*Q.* You don't know how many times they had been put in and out? *A.* Once.  
*Q.* After the arrest of Hauptmann the state police took possession of his apartment, did they not? *A.* No sir.  
*Q.* You rented it for a couple of months, did you not, you yourself? *A.* After Hauptmann had moved out, yes sir.  
*Q.* And locked it up? *A.* Yes sir.  
*Q.* And refused admission to the defense or their representatives? *A.* I have never had any request from the defense for permission to enter.  
*Q.* Well, you left those instructions at the house, didn't you? *A.* No sir.  
*Q.* May we inspect those premises that are in your charge and possession? *A.* You have my permission; yes sir.  
*Q.* When may we do that? *A.* Whenever we can get together on it. I guess we can go up there and look it over.  
*Q.* Before the trial is over? *A.* Yes sir, if you care to.  
*Q.* Well, the property was infested with police, wasn't it? *A.* Well, there were a few policemen around there.  
*Q.* Yes. How many do you call a few? *A.* Detective Tobin, myself, two police carpenters and two police guards, I believe.  
*Q.* Now, how many times were the police carpenters up in the attic before Mr Koehler arrived on the scene? *A.* They were there with me, that was all.  
*Q.* How many times? *A.* Once.

#### CHARLES F. W. ENKLER [*recalled*]

##### *Direct examination by MR PEACOCK:*

The witness corroborated the previous witness regarding the missing floor board and the four nail holes in the ladder rail and the beam.

##### *Cross-examination by MR POPE:*

When the ladder rail was placed on the beam so that the four holes matched, a small space existed between the end of the ladder rail and the adjoining floor board.

#### ANSELM CRAMER [*recalled*]

The witness corroborated previous testimony regarding the nail holes and conditions in the Hauptmann attic, and underwent a cross-examination similar to that of the preceding witness.

## ARTHUR KOEHLER

*Direct examination by MR WILENTZ:*

Q. Mr Koehler, will you please tell us where you live and what your business is? *A.* I live at Madison, Wisconsin, and I am employed there at the United States Forest Products Laboratory.

Q. Do you mean that you are employed by the United States government? *A.* I am.

Q. And what does the Forest Products Laboratory work consist of? *A.* The work of the Forest Products Laboratory consists of making tests and investigations on wood.

Q. Tell me whether or not you are the wood expert of the United States government? *A.* I am the expert on the identification of wood for the government.

Q. Are you in charge of the department? *A.* I am.

Q. In your capacity with the United States government and in your particular field, has it become necessary for you to testify in court? *A.* Yes, I have at various times testified in court.

Q. All right, sir. Now, in the capacity in which you have been employed, will you tell me whether or not you came into the Lindbergh case at the request of the government and the State of New Jersey. *A.* I did.

Q. And in that connection you have, have you not, inspected and examined this ladder, S-211, on many occasions? *A.* I have.

Q. I want to call your attention, first, particularly to what has been referred to as Rail 16. Did you take off this Rail 16, a part of Exhibit S-211, for the purpose of investigation in the attic of the Hauptmann home? *A.* I did.

Q. When did you do that? *A.* I made that investigation on October 9, 1933, the first time.

Q. Having taken off this section, Rail 16, what did you find? *A.* I found that the nail holes in it corresponded exactly with four nail holes in the joists in that attic and the grain of the wood in that rail corresponded exactly with the grain of wood of the board next to it.

Q. Now, let me ask you, before you get to that—you have also seen this exhibit, have you not? *A.* I have.

Q. And did you see that in the attic? *A.* Yes.

Q. Tell me whether or not there is any relationship, in your opinion, between Rail 16 and Exhibit S-226.

MR POPE: I object to the question. I object to the expression "in your opinion" by the witness.

THE COURT: The witness will not answer until I hear Mr Pope's objection.

MR WILENTZ: I will withdraw the question.

Q. Tell me whether there is or whether there is not a relationship between S-226, this piece of lumber here, and Rail 16.

MR POPE: Object to the question. That isn't any different from the last one. The only difference is he leaves out the word "opinion", and the witness cannot say whether there is any relationship except by expressing his opinion, and we say that this witness is not qualified to express an opinion regarding wood.

THE COURT: Do you say that he is not qualified as an expert on wood?

MR POPE: We say that there is no such animal known among men as an expert on wood; that it is not a science that has been recognized by the courts; that it is not in a class with handwriting experts, with fingerprint experts or with ballistic experts. That has been reduced to a science and is known and recognized by the courts. The witness probably may testify as an experienced carpenter or something like that, but when he attempts to qualify and express opinions as a wood expert, that is quite different.

THE COURT: Well, of course, the term "wood expert" is a broad term. It might very well be limited so far as this case is concerned. What I am trying to find out is the basis of your objection. Do you object to his qualifying as an examiner of wood and to finding out the history of that wood? Do you object to that?

MR POPE: Yes, certainly we do, and that he is not qualified to express an opinion. For instance, a physician examines a patient and he finds certain symptoms, he expresses an opinion. He is qualified because he represents a science. A fingerprint expert examines fingerprints, he makes measurements and comparisons. He expresses an opinion because that has been reduced to a science, and has been recognized by the courts, but this is no science; this is just merely a man who has had a lot of experience in examining trees, who knows the barks on trees and a few things like that. He may come into court and he may tell what he did and what he saw, but when it comes to expressing an opinion as an expert or as a scientist, why that is quite different indeed. We say that the opinion of the jurors is just as good as his opinion, that they are just as qualified to judge whether there is any relationship between those two pieces of board as this man of experience, as he terms himself.

THE COURT: I think the witness is qualified as an expert upon the subject matter.

MR POPE: May we cross-examine him on that subject and see?

THE COURT: You surely may.

MR WILENTZ: If your honor please, may I suggest now, of course I have no objections to cross-examination as to qualifications at this time, but it seems to me that properly comes before the witness starts his testimony as to the matters before the Court. Now, we

have qualified him and there was no objection to it. However, I will withdraw.

THE COURT: I don't want to stand on form, Mr Attorney General, and I don't think you do.

MR WILENTZ: No sir.

THE COURT: You may cross-examine him, Mr Pope.

MR WILENTZ: Before he does, may I ask that the counsel's observation about there being no such animal as a wood expert be stricken out? I am sure he didn't intend it.

MR POPE: I will withdraw it. It is just a homely expression, not meant with any reflection at all.

MR WILENTZ: Mr Pope, I will make an effort to qualify Mr Koehler, if there is any question about it.

MR WILENTZ:

Q. Mr Koehler, are you a graduate of any university? *A.* Yes.

Q. Will you tell us what university, when you graduated and the course you pursued there. *A.* I graduated from the University of Michigan in 1911, where I pursued the course in forestry. Later on I took some postgraduate work at the University of Wisconsin in forest products and received the degree of master of science at the University of Wisconsin in 1928.

Q. Have you devoted your entire adult life to this work? *A.* I have.

Q. Are you the author of any papers on the subject, and books? *A.* Yes, I have written a number of government bulletins and a book.

Q. Have you some of these bulletins and books here? *A.* I have.

Q. Will you please get them for us? *A.* Yes. I have here a number of bulletins, reprints, a book and a list of publications other than these.

Q. You are giving to me, then, a book published by the McGraw-Hill Book Company, entitled *The Properties and Uses of Wood* and this Koehler referred to here is yourself, is that so? *A.* Yes.

Q. Can you read for us the list of publications of which you are the author so as to avoid the necessity of presenting all the papers, except for the defense? *A.* There are a large number here, fifty-two altogether. [*Witness reads list of publications.*]

THE COURT: Let me interrupt for a moment. Mr Pope, do you still want to question this witness as to his expert qualities?

MR REILLY: May we preserve our rights to this extent, and have the Court pass upon the witness's qualifications, as to whether the Court thinks he is qualified or not?

THE COURT: Yes. I would say to counsel now that I deem this witness to be qualified as an expert.

MR WILENTZ:

Q. All right, sir. Now, let me ask you again, I show you State's Exhibit S-226 and I show you Rail 16 of State's Exhibit S-211, and I ask

you what, if any, is the relationship between that rail and the exhibit just referred to. *A.* As a result of a careful study of the two, I have come to the conclusion that those two pieces at one time were one piece. They have been cut in two.

*Q.* Why do you say that they are the same piece; they were originally the same piece and have been separated? *A.* Well, there are a number of points of similarity between the two that make me believe that they were one, were one piece.

*Q.* Show the jury the section of the ladder where the nail holes are, without using the nails. *A.* This rail here, you can see one nail hole there. [*Indicating.*]

*Q.* Indicating one nail hole near the first rung of the ladder, as you are holding it up; is that it? *A.* Yes sir; near the top rung, yes. Another one there, and two of them over here.

*Q.* On rail known as Rail 16? *A.* Yes.

*Q.* All right. Now, what about them? *A.* I took—those are cut nail holes—I took some cut nails, the cut nails which were removed from this board in the attic that has already been referred to.

*Q.* That is S-226? *A.* Yes; yes, and placed them into the nail holes in this rail, and those nails fit perfectly. There were nail holes in these joists along the south side of the floor and the west half of the floor and I found that these protruding nails, stuck into this rail, fit exactly in the four nail holes which were in those joists. Now, that indicated to me without any doubt—

*Q.* All right, tell us what your opinion is. *A.* In my opinion that rail had at one time been nailed down there on those joists, because it would be inconceivable to think—

*Q.* Well, what is your reason for the opinion? *A.* There are four nail holes a certain distance apart and a certain direction from each other and in my opinion it wouldn't be possible that there would have been another board somewhere with cut nail holes in them, spaced exactly like these nail holes are in the joists, the same distance apart, the same direction from each other.

*Q.* Now, let me ask you, Mr Koehler, the distance between the nail holes on Rail 16, between hole No. 1, as you have indicated it, and hole No. 2, is it the same distance between 1 and 2, and 2 and 3, and 3 and 4, or are they different distances? *A.* They are different.

*Q.* Are they in different directions? *A.* Yes.

*Q.* That is, as my finger goes from No. 1 to 2, across there? *A.* Yes.

*Q.* And then down here to No. 3, and across to No. 4, as you call it? *A.* Yes.

*Q.* And is that the same way that the holes were in the joist that you have talked about? *A.* Exactly.

*Q.* Did it require any manipulation at all or did they fit perfectly? *A.* They fit perfectly.

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Q. All right now— A. Not only as to the direction and spacing, but slant. One of these nail holes in here particularly is slanting, and the nail hole in the joist had the same slant.

Q. Now, is that the only reason that you determine and you give as your opinion the fact that Rail 16 and S-226 were at one time the same piece of lumber, before it was separated? A. No.

Q. What other reason? A. Because when these nails were inserted in the joist, with that rail, the edge was perfectly parallel to the adjoining board. Now, if that had been an accident, that those four nail holes were the same distance apart and the same direction, it would not be expected that that board would necessarily be parallel to the boards in that floor.

Q. Now, I think—will you explain to us further now, as you see it there, why you have stated that the two upper boards representing S-226 to my left and the rail referred to in here as Rail 16 were at one time together in one board?

MR POPE: Well, I object to that because manifestly that is a matter of speculation and a pure guess on the part of the witness. It can't be otherwise. I don't know that his guess is any better than the guess of the jury.

THE COURT: He may answer the question.

MR WILENTZ:

Q. Answer the question, please. A. For one thing, this picture shows it to be found in the attic, that a saw cut had been made at the end of this board.

Q. Will you indicate where the mark of the saw on the board is. A. Yes; in the adjoining board is a little cut right in line with the end of this board. Furthermore, there was sawdust on the lath and plaster of the ceiling below, right underneath the end of this board. Furthermore, this board projects over the joist. Now, a carpenter wouldn't let the end of a board lap over like that and hang free; he would put the joint right on the joists there, which also indicates that that was not the original condition. Furthermore, by matching up the grain in this board in the floor and this rail from the ladder, I find that the grain matches practically perfectly, considering the gap that is between the two.

Q. Have you got a picture here which shows the grain and what you call the matching of the grain? A. Yes.

Q. Is this the one? [Enlarged photograph.] A. Yes.  
[Photograph marked State's Exhibit S-230 for identification.]

Q. Now, have you the two bottom pieces to which counsel says he has no objection, separate from this photograph? A. Yes, I have a separate photograph.  
[Photograph received in evidence and marked Exhibit S-231.]

Q. S-231 is a photograph of the grain of the ladder and of the two pieces that we have been talking about; is that so? A. Yes.

Q. Tell us the relationship between the two. *A.* That lower picture is a photograph of this end of the floor board and you can see this big streak that is on the board on the picture, and you can see, I think, that the grain curves with the convex side up. And we have the same thing there.

Q. All right. Now proceed with your description. *A.* In order to get a picture of the two adjoining ends it was necessary to tip the rail back and over.

Q. Which rail? *A.* Rail 16.

Q. The ladder rail? *A.* Yes.

Q. Just refer to it as the ladder rail. *A.* The ladder rail, to turn it back over on top of the floor board so that they could take a picture of the two at the same time, and that accounts for the fact that the rings seem to curve in the other direction in this ladder rail, but that is just because it has been turned over on its back. Now, I want to point out the similarity between those two photographs, that is, the photograph of the ladder rail, the end of the ladder rail, and the end of the floor board. You will notice that in general these curved lines here, those are the annual rings. Annual rings—a tree each year produces a layer of wood under the bark and those are known as the annual rings, and it is by means of those rings that the rate of growth and the age of the tree can be determined, and that is, naturally they have to be curved because they go around the tree. There are the same number of annual rings in the floor board, counting it across in the most direct manner, as there are in the rail.

Q. Does that indicate that the two boards are of the same age? *A.* That indicates that it took the same number of years to produce that much growth. Furthermore, the variation in the width of the rings is the same. You will notice that there are three narrow rings right from in here where I point with my pencil—I will mark them [*witness marks exhibit*], and toward the lower side the next two are heavier and on the upper side the next two are heavier. Now, in this other picture of the end of the rail we also have three narrow annual rings following each other, and the next two rings on the convex side in the bottom in this case, and as in the top on the floor board, are wider.—And the two rings on the other side or concave side of the narrow ones are wider again, just as we have in this floor board. There is one apparent inconsistency. In this portion of the floor board to the right the wings are wider and more distorted than they are in this piece, this end of the ladder rail; but that is due to a knot.

Q. Just wait a minute now. That knot isn't in evidence. Is that best shown on the next—S-232, we will say, for identification? Can you show it on S-232 for identification? *A.* Yes, this is the knot right here, at that end of the floor boards.

[*Photograph marked Exhibit S-232 for identification.*]

Q. And that is the knot you are talking about? *A.* Yes sir.

Q. Proceed from there, please. *A.* Knots distort the grain and the closer you get to the knot, the more the grain is distorted, hence the grain is greatly distorted in this corner of the floor board. You will notice, however, that the annual rings on this corresponding corner of the rail are also wider, showing that there was some factor influencing their growth right there. Now that, in my opinion, is the influence of this knot extended over into the end of the rail, but the grain is not distorted so much in the rail, because it was farther away from the knot there.

Q. Now, will you show us how the grain joins there, how in your opinion that grain was joined; have you got an exhibit for that purpose? *A.* I will use this right here.

MR WILENTZ: Counsel consents to S-232 for identification being in evidence.

[*Photograph of knot in board, heretofore marked Exhibit S-232 for identification, now received in evidence and marked Exhibit S-232.*]

*A.* [Continued.] I can make this a little clearer if you want me to.

Q. I want you to. Please don't let me hurry you. If I miss something I want you to tell me about it. *A.* To bring out more clearly the similarity between these growth rings in the rail and in the floor board I will take another photograph, which is a duplicate of that, made of the same negative and to the same scale and show you that that can be matched up with this one perfectly.

[*Photograph of board received in evidence and marked Exhibit S-233.*]

*A.* [Continuing.] Now that, to my mind, in itself proves conclusively that these two pieces of wood were at one time one piece, on account of the practically perfect match you can get between the two.

Q. Will you just come over here a little bit, please? Right there, I think, will be all right. Now, will you follow the grain from the board from the attic floor on S-231, and show us what you consider to be the perfect match as the grain proceeds into S-233, the one being the board from the attic floor, the other being the board from the ladder rail; follow it with a pointer for the jury. *A.* Here are the three narrow annual rings in the floor board that I referred to. These are the corresponding annual rings that I have marked over here. [Indicating.] Now you can see how not only the curvature but the width of the rings follow right through from one to the other. You can see how these two wider rings below these three narrow ones are also found in the ladder rail.

Q. How do you explain the difference in color? *A.* This ladder rail has been processed for fingerprints and some of the liquid ran into the end grain of the wood.

MR POPE: Do you know that?

THE WITNESS: I saw the material on it, that is, the silver nitrate stained on it.

MR WILENTZ:

Q. Just a minute. Do you know the effect of silver nitrate upon wood, this type of wood? *A.* Yes.

Q. Does it discolor it somewhat? *A.* Yes.

Q. To a darker hue or lighter hue? *A.* Darker.

Q. Would that explain the difference between the two? *A.* Yes.

Q. All right. Have you completed your comparison of the grain, the following of the grain of one into the other, or do you want to proceed further? *A.* I now will show you how that same grain connects up on the top surface of these two boards. As I said before, there was a piece missing between the two, about an inch and a quarter wide, but I can connect up the corresponding grain.

MR POPE: I object to this unless the gentleman saw the missing piece that was about an inch and a quarter wide or can account for it. I object to his testifying that there is any matching of the grain between these two boards. It seems quite obvious that you could take almost any piece of North Carolina pine showing that general grain and draw them far enough apart and together and manipulate them so you might get a comparative continuity of grain. It is that missing piece, sir, that we object to.

THE COURT: Well, perhaps the witness is going to testify about that. I don't know what he is going to testify to.

MR POPE: Then I think he should testify to that first.

MR WILENTZ:

Q. You have testified that in your opinion that was, at one time, one and the same piece of lumber. *A.* Yes.

Q. Now, you indicate to us just about the relative positions with a piece missing. *A.* Yes.

Q. Can you explain to us how those pieces were connected? Do these boards indicate it to you? Does your experience tell you how they were connected? *A.* Yes.

MR POPE: I object to any expression of opinion as to whether or not these two boards were at one time a part of one board, unless the gentleman will tell us what he knows about the missing piece an inch and a quarter wide.

MR WILENTZ:

Q. Well, we will if you will let us. Do you know how they were connected? *A.* Yes.

Q. All right, tell us. *A.* That is obvious.

MR POPE: No, first off, I want to know about the missing piece, your honor.

THE COURT: He is telling you that they were connected originally and I suppose he is probably going to be interrogated as to the sort of missing link there is between the two boards.

MR POPE: May I ask him just one question? Did you ever see the missing piece that is unaccounted for? *A.* No.

*Q.* You never saw it? *A.* No.

MR POPE: Then I object to it.

THE COURT: My suggestion is that the witness may be interrogated as to whether or not he knows that there was a missing link there originally.

MR WILENTZ:

*Q.* From your experience, from your investigation and examination of these pieces of lumber, what have you to say as to whether or not there isn't a piece missing that originally connected the two pieces?

MR POPE: I object to the form of the question. It is not from his experience or from his investigation. It is from his knowledge.

THE COURT: I will overrule the objection.

MR WILENTZ:

*Q.* Will you answer the question? *A.* Yes.

*Q.* All right. Now tell us about it, please, just how they were connected then, since you say you know it. *A.* These three narrow annual rings in the two end views of these two boards, referring to S-231 and S-233, in my mind are a means of showing which rings were originally connected, because there is a series of three narrow rings in both of them. Now, those rings do not run out to the surface. Therefore, I cannot connect them up on the surface. So I will count out from there to the fifth ring beyond. It is one, two, three, four, five. That one runs out to the surface. And I will do the same on the other ones; I will do that on this one; one, two, three, four, five. That is the one there.

*Q.* When you are talking about the surface, you are talking about that portion of the lumber which is shown on S-232, aren't you? *A.* The broad surface. Now, I will mark those rings on here. This ring right here is the fifth one out from this rail.

*Q.* That is the fifth ring, then, on S-233? *A.* That is the fifth one.

*Q.* Yes sir. *A.* And on this board, this ring right here is the fifth one out from those three narrow ones.

*Q.* You are showing now on the added board, S-226, the fifth—shown on 231—the fifth of that shown on 231; is that it? *A.* Yes. I will connect those up. Now, they are the corresponding rings. Now, that same ring goes around here on the other side, over here, and on the floor board, that fifth ring out is over there. I connect them up. Now I connect up the rest of the rings because they must follow. This ring makes no connection over here. It just makes a loop there. And the others have to follow in sequence. Now that, in my opinion, shows a perfectly logical connection, looks perfectly natural. There is nothing inconsistent about that between those two boards.

*Q.* I notice that the ladder rail is not as wide as the attic boards. Will

you explain that, if you can tell from an examination of the two?

*A.* In examining this ladder rail I noticed that both edges were planed with a hand plane. The plane was not in very good condition and left little ridges, and also these ridges were wobbly over in the end, showing that both edges were planed with a hand plane.

*Q.* I want to show you an exhibit in this case, S-177. Can you tell whether or not S-177 is the plane that was used in planing the ladder rail? *A.* It was.

[*Note: The plane was one taken from Hauptmann's tool chest.*]

*Q.* Is there any question in your mind about it? *A.* Not the least.

*Q.* Now, let me ask you this: why do you say it? Will you explain it?

*A.* Because on the ladder rail there are a number of ridges of different size and when I plane a piece of wood with that plane it makes similar ridges of the same size and same spacing apart as is found on the ladder rail.

*Q.* Would any other plane in your opinion make those ridges and marks?

*A.* No, that would be out of the question.

*Q.* Why? Will you take a piece of wood—have you got an extra piece of wood here not connected with this case at all? *A.* Yes.

*Q.* And take this plane, plane that piece of wood and show this jury the marks that it shows on that piece. *A.* Yes.

*Q.* And then show them the marks that you say correspond with the piece of the ladder. *A.* Yes sir; I also have photographs of those marks.

**MR POPE:** Well, I object to the question, sir, and object to the demonstration, because there is no evidence in this case that the bit of that plane has not been used since it was found in the Hauptmann house and that the bit is in the same condition that it was when it was taken from the house; it has been here, there and everywhere in the meantime.

**THE COURT:** If counsel—the witness has already said that he found certain marks indicated when a certain plane was operated on the ladder.

**MR POPE:** Then I think that is sufficient.

**THE COURT:** Well, it may be so, but I am not sure that they haven't a right to demonstrate that.

**MR POPE:** We think they have not, sir, under the circumstances—

**THE COURT:** You think they have not?

**MR POPE:** —and under the state of the evidence as it stands now at the present time.

**THE COURT:** Well, I won't deny them that right.

**MR POPE:** May we have an exception?

[*Exception allowed and the same is signed and sealed accordingly.*]

**MR WILENTZ:**

*Q.* Will you please take this plane, S-177, and demonstrate to the jury what you mean by plane marks. *A.* I will take a piece of wood

which has previously been planed by a machine planer and is practically smooth. Now I will plane that with this hand plane and then make an impression of the marks made by that plane and also an impression of similar marks on the rail or some of the rungs of this ladder and show their similarity.

MR POPE: May I ask the witness a question at this point, sir?

Q. What kind of wood is that you are going to plane? A. This is ponderosa pine.

Q. That is different and much softer than North Carolina pine, different in grain and texture? A. It is different from North Carolina pine.

MR POPE: I submit if we are going to have any demonstration at all, we ought to have a piece of North Carolina pine brought into court and a piece of North Carolina pine planed, not a piece of nice, soft pine, or nice, soft poplar or something like that.

MR WILENTZ:

Q. Have you a piece of North Carolina pine here that you might use? A. I haven't got a piece that I could clamp down very well, but if I may offer the suggestion—

MR POPE: We don't want any suggestions from the witness.

THE COURT: Let the attorney general examine him. He may find out something from him which may be of value.

MR WILENTZ: What suggestion did you say you have?

MR POPE: I object to the question.

MR WILENTZ: Counsel wants North Carolina pine. I am trying to meet his objection, your honor, and that is the only purpose. Have you something in the courtroom here, N. C. pine instead of what you proposed to us a minute ago?

THE WITNESS: No; that was not what I was going to suggest.

MR WILENTZ:

Q. What could you use? A. The same plane marks, hand plane marks, occur on the rungs of this ladder and they are made of ponderosa pine.

Q. That is fine. You mean, then, that the rungs of this ladder, you mean those little pieces that connect, are made of ponderosa pine? A. Yes.

Q. And that is exactly the same type of wood as you have here? A. Yes.

Q. Were there plane marks and are there plane marks upon this ponderosa pine? A. Yes.

Q. Are the plane marks made by the plane that is in evidence? A. Yes.

Q. Now, will you show us the plane marks on this? A. On this ponderosa pine?

Q. Is the piece of wood upon which you propose to make the demonstration the same type, the same quality of wood that makes up those rungs of the ladder? A. Yes.

Q. Have you the plane and will you give us a demonstration? A. Yes. In order to make an impression of these plane marks I employ a

very simple method that I learned when I was a youngster. I used to put a piece of paper over a coin and rub a pencil back and forth over the paper and get an impression of the coin on the paper. I can do that same thing by putting a piece of paper over the plane surface, rubbing a pencil back and forth and getting an impression of these marks made by the hand plane. Before I do that, however, I will take this piece of wood before I plane it and see what we get, so as to have something for comparison. Now, I will mark this piece of paper before planing in Court.

Q. Wait a minute; let me give it to the stenographer and let him mark it. Will that be all right, sir, serve the same purpose? A. Certainly.

[*Paper referred to was marked Exhibit S-234 for identification.*]

THE WITNESS: If it is all right, your honor, I would like to make the demonstration here, because this seems to be a substantial thing to work on. [*Indicating the judge's bench.*]

THE COURT: All right, so far as I am concerned.

THE WITNESS: Now, before planing the top edge of this piece of wood I will make some marks on there with a pencil to be sure that we can see that the plane takes something off. [*The witness proceeded with his demonstration.*] On this one end you can see that all the blue marks have been removed. That means that the planer took off a complete shaving all the way across the piece of wood. I will now proceed to make an impression of the marks made at that point. [*Demonstrates.*]

[*Paper marked Exhibit S-235 for identification.*]

MR WILENTZ:

Q. Is the paper S-235 for identification the paper that was applied after the planing? A. Yes sir.

Q. To the object that was planed? A. Yes.

Q. Let me ask you, Mr Koehler, before you proceed any further: is there a difference in the impression that comes before the planing as shown on S-234 and the planing as shown on S-235? A. There certainly is.

Q. Take them and show them to the jury, please. You have to get close so that they can see it. A. This sample, which is an impression of the piece of wood I just planed, you can notice distinct lines running across there. You can see it better by looking at it slanting over the paper. See those lines there. This here, we have a few curved lines in the grain of the wood.

Q. One has curved lines, you say, due to the grain? A. Yes.

Q. That is the one, 234, before the planing, you mean? A. Yes.

Q. And what does the other show as distinguished between— A. It shows a different series of lines.

Q. Different series of lines? Now, will you explain the marks of the plane? A. Now I will next proceed to make a similar impression

of the hand-plane marks on one of the rungs of the ladder. That was rung No. 10. Do you want to mark this as an impression taken from rung No. 10?

Q. Rung No. 10 on Section 3, of Exhibit S-211? A. Yes.

*[Photographic reproductions of the marks made by the Hauptmann plane on various pieces of wood, as compared to the plane marks on the ladder rail and rungs, were admitted in evidence over defense objections.]*

Q. I want to show you State's Exhibit S-210, a chisel. Have you seen that chisel before? A. Yes.

Q. Can you tell whether or not that chisel was used in the construction of the ladder . . . and if you can, will you tell us about it? A. I can tell you whether that size was used.

Q. All right. Tell us what size chisel was used. A. The re—

MR POPE: Well, I think we ought to object to that. Of course if he wants to express his opinion as to whether this identical chisel was used, why, perhaps his opinion may be expressed; but to say that an ordinary  $\frac{3}{4}$ -inch chisel was used to make the ladder doesn't connect it with this chisel in any way.

THE COURT: Well, it may be a circumstance for the consideration of the jury.

MR POPE: Well, if this chisel were found in Hauptmann's garage it might be a circumstance, but it was found some forty miles from there.

THE COURT: Yes. And it was found, was it not, under the southwest window of this nursery?

MR POPE: Somewhere on the Lindbergh estate; I don't remember where.

THE COURT: Where the ransom note was left, which had been traced to this defendant.

MR POPE: We don't agree to that.

THE COURT: I know you don't, but I am telling you what the evidence tends to show. Therefore, I think that these pieces of circumstances must be given over to the jury to consider. That is my ruling on the matter.

The witness said that a  $\frac{3}{4}$ -inch chisel was used in making the recesses for the rungs of the ladder. Under direction of the attorney general, he inspected the Hauptmann tool chest (S-196) and said he found in it no  $\frac{3}{4}$ -inch chisel, such as would be in any ordinary carpenter's kit.

MR WILENTZ:

Q. Prior to September 1934 and before the day that Hauptmann was arrested, had you ascertained where some of the lumber that made up this ladder came from? A. Yes.

Q. Where did it come from? A. From the National Lumber & Mill-work Company in the Bronx. . . . I traced some of the lumber

in the ladder to the planing mill that dressed it and from the planing mill to the National Lumber & Millwork Company.

Q. Now will you tell us how you traced it? *A.* I traced it by means of the planer marks made on the lumber when it was planed at the planing mill.

Q. Where did you go? *A.* I went to the M. G. and J. J. Dorn Company, McCormick, South Carolina.

Q. How many companies are there that manufacture these planing machines? *A.* Two, in the eastern part of the United States.

Q. As a result of your investigation, did you find the machine that imposed these planer marks on this ladder? *A.* I did.

Q. Where did you find the machine? *A.* At the mill of the M. G. and J. J. Dorn Company, McCormick, South Carolina.

Q. Having found the planer machine that made these planer marks, did you then follow the lumber that came from that mill, made in the shipment when that planer was used? *A.* Yes.

Q. How many loads of lumber did you follow? *A.* About forty-two.

Q. And finally did you get to this lumber company in the Bronx?

*A.* Yes.

Q. Tell us what you found there. *A.* I found one-by-four North Carolina pine in which the knife cuts made by the planer were exactly the same width as those on the ladder rail and also there was a defect in the planing on one edge and one side of the rail, which I found on the one-by-four North Carolina pine in the Bronx yard.

The witness demonstrated by charts and diagrams the mechanical operation of a machine planer and showed how, by microscopic inspection of the ridges made by the revolving knives in the "cutter heads" (particularly when one knife has a defect) it is possible to determine not only how many knives are used in the top, bottom and side cutter heads, but the rate of speed at which the cutter heads revolve and the rate of speed with which the lumber goes through the planer. . . . "This is a photograph of a portion of the side of one of these rails. You will notice that that there is a periodic mark occurring at regular intervals. That is due to one of the knives not protruding as far as it ought to and every time it came around it didn't make as wide a cut as it should. Consequently, I can tell how far that lumber moved through the planer per revolution of these cutter heads. The cutter head dressed the surface. I find in measuring that distance on the lumber itself that that distance is regularly 93 hundredths of an inch."

Q. What does that represent, that distance? *A.* We call that revolution marks . . . so this lumber passed through the planer at the rate of 93 hundredths of an inch for every revolution of the cutter head that dressed the surface. I can also count that there are eight individual knife cuts between these revolution marks in each case. That means there were eight knives in the cutter head that dressed

that surface; and the same is true of the other side of the board. Now, on the edge of the board it is different. The edge of the board shows that the cutter head made one revolution in every 86 hundredths of an inch that the lumber went through the planer, and 93 hundredths of an inch on the side; and that there were six knives in the cutter heads that dressed the edges.

With this information, gleaned from examination of the ladder rail, the witness set forth on an investigation of planers used in the eastern United States. . . . "I found that comparatively few planers are used having eight knives in the top and bottom heads and six in the side heads. The fact is, I made a thorough canvass of all planing mills from New York to Alabama. There are 1598 altogether and I found only 25 firms that had a planer with eight knives in the top and bottom cutter heads and six in the side heads. Two of these I could rule out because they did not dress one-by-four stock, that size. I got samples from the other 23 firms, and I found that only one of those firms made revolution marks of the same spacing as the ladder rail. All the others made wider or narrower revolution marks."

*Q.* What firm was that? *A.* That was the M. G. and J. J. Dorn Company, in McCormick, South Carolina.

The witness said he visited the Dorn company and found the machine for which he was looking. He then traced 42 carloads of lumber, sent from the mill during the months preceding the Lindbergh kidnaping, and arrived at the National Lumber & Millwork Company of the Bronx, where he found pieces of wood with marks identical with those on the ladder rail.

## SEVENTEENTH DAY

Flemington, N. J., January 24, 1935.

ARTHUR KOEHLER [*resumed the stand under direct examination by Mr Wilentz.*]

Q. Now, Mr Koehler, yesterday you spent some time with us about these pieces of lumber and your exhibits; particularly you explained the relationship, as I remember it, between Rail 16 and the board in the attic floor, which is known as S-226, and then you were telling us about the lumber which you traced from South Carolina to the Bronx lumber yard. The Rail 16, was that a part of the lumber that came from South Carolina in this shipment you talked about?

A. No.

Q. What was it that was a part of the shipment you traced to the Bronx lumber yard? A. Just the two bottom rails of the ladder.

Q. All right, sir. So that it was not your intention at any time to indicate that Rail 16 was a part of the wood, the one-by-fours, that came from the South? A. No.

MR WILENTZ: At this time, your honor, I want to offer in evidence the automobile in which Mr Hauptmann was riding on the day of his arrest for the purpose of identifying it as his automobile on that day, bearing the same license number as it did the day of the arrest and we have it here within the court square so that if the weather permits it before the case is concluded, the jury may be able to examine it.

*[After a controversy with counsel for defense, a photograph of the defendant's automobile was admitted in evidence.]*

Q. Now, did you take this ladder and attempt to fit it into that car? A. I did.

Q. Did it fit in the car? A. Yes. When I took the three sections assembled and nested together, they fit in on top of the front and rear seats, and there were several inches to spare.

*Cross-examination by MR POPE:*

The witness said that when fitted into the car in the manner he described the ladder could readily be seen by anyone on the outside "unless it was covered up." The cross-examiner engaged in a long colloquy with the witness regarding "grades" of lumber in the attic floor and in

the ladder. As a piece of carpentry, the witness said the ladder was a rather poor job of construction.

*Q.* Now, may I ask you what this cross rung, No. 11, is, up there?  
*A.* That is Douglas fir.

*Q.* And that comes from the West Coast? *A.* Yes.

*Q.* These rounds on all the sections of the ladder are spaced in a rather wide distance apart, are they not? *A.* Unusually wide.

The witness said he traced the Douglas fir to the Barnett mill in Vancouver, B. C., where he obtained samples of similar wood. These samples, however, did not conform to the wood used in the ladder. In response to further questioning, he said he found no similar wood in or around Hopewell, or at the epileptic village near Skillman, N. J. Three-quarter-inch dowel pins, he testified, could commonly be purchased in any hardware store, and the size was not unusual. . . . They are "frequently used for mop handles."

*Redirect examination by MR WILENTZ:*

In order to make the rungs flush with the rails recesses had to be made with saw and chisel, and these "are not made in lawyers' offices." Dowel pins had to be fitted into their holes, and this would have to be done by someone who knew something about carpentry. Regarding the break in the ladder, the force of any weight would cause the greatest stress at the intersection where the dowel pin was.

*Q.* Now, with reference to the distance between the rungs of the ladder, a little fellow like me would have a hard time climbing a ladder with rungs so widely separated, wouldn't he? *A.* Yes.  
*Q.* A man about five foot nine or ten inches would have an easier time, wouldn't he? *A.* Somewhat easier, yes.

The witness said that the defendant's carpenter's tools were not a good set—particularly that the plane was not a good plane.

*Q.* Are you still of the opinion, Mr Koehler, that this S-226 and Rail 16 of the ladder were at one time one and the same piece of wood?  
*A.* I am.

*Re-cross-examination by MR POPE:*

*Q.* And in answering that question you are expressing your opinion, aren't you? *A.* Yes.  
*Q.* This type of ladder is . . . used quite extensively in the South in the fruit industry, is it not? *A.* Not to my knowledge. I never saw a ladder like that before.

There followed a brief redirect examination and an equally short re-cross-examination, whereafter:

MR WILENTZ: The State rests.

## MOTIONS

THE COURT: Counsel may proceed.

MR ROSECRANS: If the Court please, I desire to make a motion for a verdict of acquittal. . . .

My motion, first, is based on this ground: that there is no evidence that the crime alleged was committed in Hunterdon County, and, therefore, under the evidence as presented, this Court is now without jurisdiction as the venue has been improperly laid in Hunterdon County, instead of the County of Mercer, the corpus delicti having been found in Mercer County. The legal presumption is that both the felonious blow was struck and the death occurred in Mercer County, as the evidence does not disclose any felonious striking in Hunterdon County, to bring the case under Section 59 of the Criminal Procedure Act—Section 59, of course, being the one that provides that indictment may be found in either one. I am mindful of the fact that a legal presumption such as the presumption of death occurring in Mercer County is a rebuttable presumption. But my contention is that there is no evidence here introduced by the State or on behalf of the State to overcome the presumption that death occurred in Mercer County. Next, that there is no evidence of a willful, deliberate and premeditated murder having been committed in Hunterdon County. That is, nothing in the evidence to show that murder in these three essentials was committed in Hunterdon County. That there is no evidence of a completed crime of murder or manslaughter in any degree having been committed in Hunterdon County. . . . Next, under the State's theory that death ensued from the committing or attempting to commit the crime of burglary, that there must be recourse to the common law for a definition of burglary, for the reason that we have no statute defining the crime of burglary as such, and there is no proof in this case to show that the defendant committed the common-law crime of burglary. Now, the argument as to that is, if the Court please, that we have a statute which some think defines burglary. According to my notion, that crime of burglary, that statutory crime, which some think defines burglary, is merely so defining burglary because of a caption in the statutes which has crept in through the compilation of the statutes. In looking back to the old statute, for instance, Nixon's Digest, we find no caption "Burglary." The common-law definition of burglary was that shortly entering by night into a mansion house with the intent to commit a felony. Under this statute, which bears the caption "Burglary", we have many other things than the common law prescribed as defining the crime of burglary.

Now, this crime of burglary, of course, is one of intention. At common law there was a breaking and entering with an intent to commit a felony. What felony in this case, if we go to the common law, as I con-

tend we must? Stealing clothes of the child, the sleeping garment? That hasn't been proven here to be a common-law felony, because a common-law felony of stealing was to steal garments over the value of, I think, twelvepence; no proof of the value of those garments, so there is no proof of a felony as to the stealing.

Now, as to the kidnaping, the only other theory, I think, that the State has produced or can rely upon is that someone entered this house with intent to kidnap this child. Well, that again at common law was not a felony and the crime of kidnaping at common law, if it may be designated as such, was the taking of a person out of the country, out of the kingdom. If the State of New Jersey be considered the kingdom or the country, certainly the body was not taken out or there is no proof to show that the child was taken out of the country, out of this sovereign State of New Jersey; and if it be the United States as the country intended, of course there is no proof that it was taken out of the United States. So that on any consideration of the testimony of the State, I find no intent to commit a common-law felony. . . .

The window was closed before and after the child was taken from the nursery according to the State's case. That, of course, at common law, I don't conceive to be evidence of a breaking of that window. The window was in the same position before and after. . . . Next, as to the Section 59 of the Criminal Procedure Act, I contend that that does not apply to a murder based upon Section 106 or 107 of the Crimes Act, that is the Section 59 being the one that an indictment may be found in either county, does not apply to Section 106 or 107 of the Crimes Act defining murder and first degree murder, because Section 59 specifically applies to a death resulting from a poisoning or a felonious striking in one county and not to a death ensuing from the commission of a felony such as burglary. In that connection, at common law, we all know that there was a time that a person could strike another in one county and if death ensued in another county an indictment would not lie in either one, but under this English statute of Henry VI, it was provided that an indictment would lie in either county and we have followed that by our Section 59, providing that if a felonious blow be stricken in one county and death result in another, an indictment may be found in either one. But that, I understand, must be limited to death by poisoning or a death by felonious striking. Now, the case is barren, the State's case is barren of any evidence indicating a felonious striking and, certainly, there is no proof of death by poisoning. So I contend that that Section 59 has no application to a death ensuing from a burglary when there is no proof of a felonious striking or a death by poisoning—and that, as I understand, is the State's theory.

Next, upon the State's theory that death ensued from the committing or attempting to commit burglary: Such crime of burglary as the necessary basic element of the crime of murder, and since the record and evidence conclusively show that the burglary, if any, was committed more

than two years before the finding of this defendant, the defendant cannot be put to trial to rebut a burglary barred by Section 152 of the Criminal Procedure Act, setting forth the limitation of prosecution. Now I mean by that, that unless the State proves a burglary, they can't convict the defendant of murder; because burglary is the basic crime upon which they rely, upon their theory to prove that the defendant is guilty of murder. If there is no burglary, he is not guilty of murder, unless, of course, they show that it was a murder springing from something else. But I understand the State's theory is that the murder was the result of the commission of a burglary. Next, that there is no sufficient proof that the defendant was at the scene of the crime upon the night in question, as the evidence of identification is too remote in point of time and distance from the *situs*; that the evidence as to the defendant's handwriting being used in the original ransom note left in the nursery is not sufficient upon which a jury could predicate the fact that the defendant was actually present in the room; and that the defendant's possession of a part of the ransom money, the building of the ladder, the writing of the ransom notes and the other alleged acts in the State of New York is not sufficient from which a jury can infer the presence of the defendant in Hunterdon County upon the night in question.

Now, of course, in a case of circumstantial evidence only those matters from which the jury is entitled to draw reasonable inferences are to be submitted. I think that under the evidence that is presented here the State has not brought this defendant near enough to the night in question when, as they say, there was a breaking and entering of this house. The nearest that I can remember is an elderly gentleman who testified he saw the defendant upon the morning of the crime in question; others placed him still more remotely in point of time. And as to the distance that was cited, I think the old gentleman was the one who placed him on that morning somewhere within a mile or two of the mansion house of Colonel Lindbergh.

THE COURT: Near the gatehouse; near the gatehouse, I think it was.

MR ROSECRANS [*continuing*]: Near the gatehouse. Now, as to this last proposition, that all of the proof of the ransom money, the building of the ladder, the writing of the note and other matters which took place in New York State, I contend that in order to prove their case the State, of course, must, on their theory that this defendant is the only one engaged in this crime, place him at that house on that night; they must prove an actual presence, no constructive presence enters into the thing. I understand very well that a man may be over in New York and send an accomplice over to New Jersey, and if he did send that accomplice over to New Jersey with a guilty knowledge, with knowledge that he was going to do something, supplied him with ransom notes or a ransom note, supplied him with a ladder even, in that event the man in New York wouldn't be guilty, couldn't be guilty of the crime charged here. I do understand that if the man in New York sends an innocent

person over into New Jersey, innocent entirely of the purpose in coming over to New Jersey, why the man in New York is guilty under the theory of a constructive presence; but that, I don't think, concerns us here, because of the fact that the State alleges that this man, this defendant, was the only one engaged in this crime. I think there is nothing to add to that, if the Court please.

THE COURT: Does the attorney general care to be heard?

MR WILENTZ: If your honor please, as your honor well knows, the State in this case has charged this defendant Hauptmann with the murder of the Lindbergh child on the night of March 1, 1932. In connection with that charge, of course, and the indictment, the State came into court with a theory, a theory which we thought at the time and which we believe now, sound in law, and that theory then and that theory now is that this defendant Hauptmann was guilty of this murder because he broke and entered into the Lindbergh home at night with intent to steal and committed a burglary in that respect, as well as the fact that he committed a battery upon the child, and that this death emanated and resulted from this burglary. We prove those facts, and if we have, he is guilty of murder. . . .

Quoting counsel's language, "The corpus delicti having been found in Mercer County, the legal presumption is that both the felonious blow was struck and the death occurred in Mercer County, as the evidence does not disclose," etc. The presumption, of course, counsel has already stated, is a rebuttable one. The presumption isn't evidence. It is a legal excuse for the failure to produce evidence. If it is rebutted at all it ceases to be a factor, and there are too many cases, they are too numerous to mention. Normandin vs. Parentean, 150 Atlantic 460; Smith vs. Tompkins, 161 Atlantic 221; New London, Water vs. Robins, 82 Conn. 623; Dunn vs. Goldmann, 111 N.J.L. 249. If it were necessary, however, to prove the place of the offense by circumstantial evidence, that is also supported by law, if your honor please. In 30 Corpus Juris at 290: "The place of the offense may be proved by circumstantial evidence. It need not be established by one who witnesses the infliction of the wounds." If the defense thinks that we are required to have somebody sitting in that room watching this man commit this burglary, or if they feel that it is the responsibility of the State to have somebody sitting at the bottom of that ladder to see this man climb it before we are entitled to a conviction, it is my judgment, if your honor please, respectfully submitted, that they are in error about it. With reference to the venue: "Venue need not be proved by direct or positive evidence. It is sufficient that it may be reasonably inferred from the facts and circumstances which are proved and are involved in the criminal transactions. The venue may be proved by circumstantial evidence." Why, we have a wealth of that type of evidence, if your honor please.

In the first place, here is this child safe in its bed in its home in Hunterdon County; the windows closed, the shutters drawn. We have proof

positive that that window was opened and we have the mud trail right from that window and the window sill right up to the baby's crib. We have the ladder, the ladder marks right on the wall. We have got the evidence of the very wood in the stone wall where that ladder, when it broke or slipped, left those splinters in the wood. That is the testimony of Lieutenant Sweeny, I think it was. So we have the ladder marks and not only the ladder marks, but actually the evidence of this ladder breaking, in addition to having the ladder there. Now we wouldn't have to have the ladder there to prove our case. It so happens that it is there. Supposing Hauptmann took his ladder home with him. Would that mean that we couldn't prove the case, if we showed by the ladder marks and other evidence, so a jury would have a right to infer that there was a ladder? But we actually have the ladder there, and we have the chisel. So that we have a wealth of evidence, if your honor please, of the crime having been committed, the burglary having been committed in Hunterdon County. What else? What is the proof as to the blow? The proof is positive, if your honor please, that this child died of a fractured skull; that that fracture was due to external violence and that death was instantaneous. What else do we have then? We have got this breaking of this ladder; we have got—as this man walks along you can see in your mind's eye, if your honor please, along this highway up to the point we are, realizing and knowing that the child is dead; there is the child's thumb guard; further proof that at that point where he yanked off the sleeping suit, which sleeping suit was returned, not with the body, if your honor please, and still in Hunterdon County. We have there the mute evidence of his knowledge that the child was dead there on that lone night when he took that garment off. So that we have all those; the burglary there, the proof, the reasonable inference that can be drawn that the child must have received its blow there, and then finding this thumb guard, and then finding the body decomposed, mutilated; from which a jury has the right to draw the reasonable inference that it must have been there for some time—it was over two months or more, if your honor please. Death was instantaneous; that is the proof, from a fractured skull. That presents the situation that the proof showed that the homicide was committed in the attempt to perpetrate a robbery, a burglary. Now counsel talks about the common-law definition, that there is no common-law definition, but there is a statutory definition of burglary. In the case of the State vs. Compo they dealt with the very statute involved, not with burglary in that case, but with robbery, but our Court indicated its line of reasoning and its thoughts upon the subject. It said: "The statutory definition of murder is as follows: 'Murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing, or which shall be committed in perpetrating or attempting to perpetrate any arson, burglary, rape, robbery or sodomy shall be murder in the first degree.' . . .

I think counsel also says that the evidence conclusively shows that the

burglary, if any were committed, was completed in Hunterdon County before the alleged blow or striking, which must be presumed to have been committed in Mercer County, where the body was found. Similar situations have been dealt with by the courts and they have uniformly held that the crime was not a separate crime. The defendants, when they are apprehended as the result of death of their victim, which death emanated from burglary or robbery, always say, "Why, it is a separate crime." . . .

Now, finally, counsel for the defense says there is no sufficient proof that the defendant was at the scene of the crime upon the night in question, as the evidence of identification is too remote in point of time and distance. It is our contention, if your honor please, that if we didn't have a living soul that said he saw this man coming up Lindy's Lane, as it was expressed by one of the witnesses, it is our feeling that if we proved, as we have proved, that he left that note, that it was his handwriting in the note in that room, that he returned the sleeping garment, that it was his ladder and that he built it—if your honor please, those things alone, we feel, would be sufficient to call upon this defendant to answer. But we have got not only that. A note is found in the baby's room in his handwriting, and two days afterwards, or three days afterwards, just as he had promised, he says, "Why don't you follow the instructions?" or something to that effect—"Why don't you follow the instructions in the note which we left in the baby's room?" And we follow the instructions and we pay the money; and we pay it to whom? To the man whose handwriting is in the baby's room, who said he left it there. And we get from him the sleeping garment, if your honor please, the sleeping garment of the child when it was last seen alive, from him. . . . He was there the Saturday before and he was there a time before and he was there by positive proof in Lindy's Lane on March 1, 1932. May I respectfully submit, if your honor please, that if the testimony of Koehler is to be believed alone, this man must answer, separate and apart from everything else; if the testimony of Doctor Condon alone is to be believed, may I respectfully submit this man must answer; if the testimony of the handwriting witnesses alone are to be believed, may I submit this man must answer. But we have got that and I don't want to take up too much time, your honor please, or go through a summation, but let me just say in conclusion that is our view, very respectfully submitted to your honor, that there is not only sufficient evidence but overwhelming evidence, if your honor please, which requires the defendant to answer.

THE COURT: The motion for direction of acquittal will be denied.

[*Exception allowed, and the same is sealed and signed accordingly.*]

#### OPENING STATEMENT ON BEHALF OF DEFENSE

MR FISHER: If it please your honor and ladies and gentlemen of the jury: I am fully cognizant of the grave importance of the trial of this

indictment. I appreciate truly how keen a responsibility is mine. I shall humbly and in language as simple as I can command give you briefly the facts and the circumstances upon which we rely to gain for the defendant, Bruno Richard Hauptmann, an acquittal at your hands. . . .

We submit that in our defense we will attempt, and we believe successfully, to prove to you a complete alibi for the defendant Hauptmann on each and every occasion that he has been named as being present at a given point in the evidence thus far produced, and I refer now particularly to March 1, 1932, to April 2, 1932, and to November 26, 1932. We believe that we will be able to prove to you, to your satisfaction, that on the day, March 1, 1932, the defendant Hauptmann, who stands accused of going into the silent home of Colonel Lindbergh and stealing and murdering the child of Lindbergh, in the early morning of that day, took his kit of tools, as was his morning custom, and went down into the City of New York for the purpose of procuring employment. And we shall ask you, ladies and gentlemen, whether or not that is the action of a man who is to engage that very night in such a nefarious crime as was committed. We will follow him downtown for you, to the agency; and from there to the job to which he was assigned. We will account, by competent testimony, we will account by the testimony of the defendant himself for his entire day and we will show that at the close of the day he returned to his Bronx home—up, I believe, on 222nd Street. His wife, a frugal, hard-working housewife, was employed in a baker shop or delicatessen store, lunchroom or whatever you desire to term it, of people named Fredericksen; that the defendant Hauptmann was obliged to call for her at least two nights a week every week, for the reason that Mrs Hauptmann didn't keep her regular and usual hours on those days. She was obliged to work late because of certain facts which the evidence will disclose. And we will show that the defendant Hauptmann did go to the baker shop of Fredericksen, and at the very hour the State charges he was climbing the ladder, which has been before you, he was in the baker shop of Fredericksen, sipping coffee, chatting with his wife; and we will show that not only by Hauptmann and his wife, but by entirely disinterested people who happened to drop in the shop. Now, that is as to the night of March first. On the night of April second, a very easy night for Mr Hauptmann to recall, because he is a German, from a part of Germany where they are much given to parties and to music and to jollification among themselves; they carry their foreign customs into this country with them. It is true, you jurors know it is true if you have in your community people of foreign extraction, you know that they cling tenaciously to their Old World customs; and so do the Germans in the Bronx, New York. And it has been their custom since they have been in there, the Hauptmanns, and a few of their German neighbors, to gather in a home of one or the other on the first Saturday of each and every month and to have a little party, a little music, a little singing, a little chat or talk of the Homeland, talk of the Fatherland. And they were, and we

will show you by evidence other than the evidence of Hauptmann, they were on the night of April second in the home of Hauptmann in the Bronx together with a friend or perhaps more than one friend—I don't recall at the moment—as you or I might be with our friends on any given night; and that the entire evening was spent there in that house, never once leaving the house. Now, as to November 26, 1934, it is a significant thing that the witness Barr picked one night about which there can't be a scintilla of doubt as to the whereabouts of the defendant Hauptmann. It was an event in his life, that day; it was his birthday; it was Hauptmann's birthday—November twenty-sixth was his birthday; and he gathered into his home in the Bronx, friends. Why, it is the custom—I don't know how many of you know Germany; if I may, for a moment, put in a personal word, I have traveled through the country, I have walked through it, I have lived with the peasants and people there. They are the greatest people in the world to observe birthdays and national holidays. There is no nation like them for that sort of thing. And in Hauptmann's house in the Bronx on the twenty-sixth of November, at the very hour Cecile Barr said from this witness stand he bought a ticket in a theater down in Greenwich Village, some fifteen or twenty miles from his home, he was at home, the host of some friends present there, at his invitation, to honor his birthday. That is as to our alibi. They are the three days, I believe, on which the State has charged certain things occurred in the life of Hauptmann which hook him up to this crime. That is as to our alibi. Now, as to handwriting. We shall attempt to prove to you—not by sheer force of numbers as the State did, for a very, very good reason: we are totally unable to procure, through financial reasons, any such array of testimony as the State could produce here. We will show you and show you clearly that the funds of this man Hauptmann are completely and totally exhausted. He is before you here in the court without one dollar that he can call his own, without a penny in the world. And his defense has been almost entirely financed through the members of his counsel. And I say to you that we cannot bring you here eight or nine or ten or twelve outstanding experts from the far parts of the world. That cannot be done. We have no money to go down to Los Angeles and bring Clark Sellers here.

MR WILENTZ: Just a minute—

THE COURT: The defense is going a good way. There is no doubt of that, Mr Attorney General. . . . I suppose it is competent for him to state that he is without funds, that is, to have his man say on the witness stand that he is without funds, if he can say so truthfully and subject to cross-examination, but I think you are going too far.

MR WILENTZ: We except to this, of course. We expect counsel to prove what he says in this regard.

THE COURT: Of course. The very purpose of an opening is to state the facts which counsel expects to prove.

MR WILENTZ: That is the reason they haven't got more handwriting

experts, as I understand it, is because of a lack of funds. We expect them to prove that.

MR FISHER: We will go a step further than that, ladies and gentlemen. We will prove that what little money we did have in the banks of New York City out of the funds of Mrs Anna Hauptmann, put in there from 1924 to 1932, has been tied up by the State of New Jersey, funds that couldn't possibly have to do with this kidnaping, and that is another very cogent reason why we are here without funds, now that we are here on the question of funds. I will say to you that we will prove that we are without funds and for that reason necessarily limited and very severely limited in the extent of testimony that we can produce before you, ladies and gentlemen, but we will produce competent handwriting experts, who will take the very exhibits put in evidence by the experts of the State of New Jersey and show you clearly and, I am convinced, to a point where there can't be a doubt in any of your minds that that is not the handwriting of Bruno Richard Hauptmann. It is not our business to prove whose it is; it is our business and we will prove to you that it is not the writing of Bruno Richard Hauptmann. We will prove it by witnesses competent, I am sure you will agree with me when you have heard them testify. I will say as to them that they will not be in such numbers as were presented by the State, but competent witnesses whose testimony you can't refuse to believe.

Now, as to finances, as to finances of the defendant Hauptmann, we will show you and, we believe, show you clearly that the State of New Jersey has far overestimated the amount of money they claim to have traced through the accounts of Bruno Richard Hauptmann, in his name or in the names of some persons holding for him. It is our contention and we believe it is borne out by the testimony thus far adduced, and we will further it by testimony of our own, that as a matter of fact they have traced something like ten or twelve thousand dollars from 1932 through to the fall of 1934. What they attempted to do, ladies and gentlemen, as the records which you will take to the jury room will show you, is that they have attempted to add repeat money. To make that perfectly clear, I want to say this: we will show you and show you clearly that the defendant Hauptmann would go into the bank and he would draw from the bank a hundred dollars or five hundred dollars for a purpose which he might then have in mind, just as any one of us if we were fortunate enough in these hard times to have that much money, we might go to the bank and draw it out. It is human and a human frailty to change your mind. He might change his mind the next day on the thing he intended to use his money for, and we will prove this to be true, and he would go back to the bank and put that same five hundred dollars in the bank, and perhaps he would do that several times. The great State of New Jersey has attempted to prove to you by evidence that that is all fresh money coming out of his pocket. We will prove to you, ladies and gentlemen, that such is not the case. We will prove to you, and we believe we have

already proven it by the State's witnesses, that if you add the losses in his accounts and the remainder of his accounts and add to that the mortgage that he took after 1932, you have got all the money that Bruno Richard Hauptmann had, except his bare living expenses from the time, April 1, 1932, down to the present minute. Certainly you will have to be convinced, if we prove to you what his total loss was, what his total remainder was, what his outstanding investments now are, that you must concede that to be the amount of money he has had.

We will show you further than that as to Hauptmann's account; we will show you that he did deal, and we will conclusively prove this to you, that he did deal as partners with a man named Isidor Fisch. They were partners in two different ways, two different lines of business, which is not unusual. They engaged in two different enterprises. One was a business of buying and selling and trading in the market, a very common practice, I assure you, as you probably well know. The other was the buying and selling and trading in furs and pelts. One business was handled by Hauptmann, the other business was handled by Fisch. The fur end of the business, we will prove to you, was handled by Fisch and he went out into this very country and bought up furs of all sorts, of fur-bearing animals that are used in the fur market. Hauptmann operated and maintained the brokerage business, the brokerage account. He attended down at Steiner Rouse and the customers' rooms. From time to time they put in money or they took out money from their account, if the fur business showed a profit—and it did show a very fine profit, and we will prove it to you—from time to time they would draw out dividends from the fur business in cash, for instance, if they would be a balance at the end of a month of perhaps three thousand dollars, they would divide two thousand of that and hold a thousand dollars for surplus and capital. This is all subject to proof, and we will prove it to you. They would each of them take a thousand dollars dividend. Now, in the market, if they reached a point where Fisch's account was overdrawn in the market, Fisch would hand the help, on presentation of records, such money as was needed to balance the account of Fisch with Hauptmann in the brokerage.

We will prove to you beyond a shadow of a doubt that on numerous occasions Fisch would go into his clothes and hand Hauptmann sufficient money to balance his, Fisch's, holding in the market. Now, there is nothing unusual about that. We will prove to you beyond a doubt that it is very common practice for one man to deal for another. I do it every day. A number of you people unquestionably have done it. It is not an unusual situation when you have men who rely on each other and who trust each other and who believe in each other.

Now, we will show you another very significant thing. We will trace the family fortunes of the Hauptmanns from the time they arrived in America. They are German people. They are a very frugal people. Nationally the Germans are a very frugal people and the Hauptmanns were

especially saving and especially frugal, and that proof rests in the bank-book of the woman, Anna Hauptmann, showing deposits running from twenty dollars up to eighty dollars out of her earnings during her early days in America. Now, were they poverty-stricken people? Were they to be a charge on the town? We will prove to you that that is not true. We will show you that as far back as 1927 these people had amassed sufficient money to take a \$3750 mortgage—and they had it. They had it in 1927. We will show you that all through that period of time they had substantial bank accounts. We will show you that they saved money that didn't find its way to the banks, as so many foreign people do. We will show you that they take currency as currency and tuck it away in the house, saving against the day when they wouldn't be able to work and earn any further. . . .

If we show you these facts, if we prove to you that they were people of means prior to April 1932, if we prove to you that they were saving, frugal people and show you their accounts, then we will say to you, "We can see nothing unusual in the situation of the accounts." . . .

We will show you, and show you clearly, that the witness Hochmuth is unreliable. We believe, we will demonstrate to you, that several years ago, when he was younger than he is now, he was discharged from a position in New York because he suffered from hallucinations, said hallucinations taking the form of people being after him, of seeing people when there was nobody to see. We intend to make every effort to bring the man here who will testify to that. He is in New York, not subject to our subpoena, but we will do our utmost, and we anticipate we will have him here. That, we apprehend, will dispose conclusively and decisively of the witness Hochmuth; if we show you that that witness was discharged from a position because he was crazy on the subject of seeing people chasing him, then we won't expect that you will put much reliance on his identification of Hauptmann, when he says he saw him at the time he said he saw him there.

Now, to Whited: We will bring you, ladies and gentlemen, witnesses who will testify that this man's reputation for veracity and truth never has been good. We believe we have shown you a motive for his identification. We believe we showed it in his own examination, why he put a man on the highway up there. We intend further to show you, and we believe we will be able to, that Whited never saw a single living soul, such as he described, in the mountains in that February; and we will show it to you by a man who worked side by side with him, every hour of every day, except Sundays, in the month of February. Now, if we show you that, we shall expect you to disregard Whited and disregard him completely. As to the witness Rossiter, we may show several interesting things about Rossiter, but we shall rely principally on the fact that the physical evidence itself will disprove the statements Rossiter made, and we will produce that evidence here. He described a certain place that he saw the car and the surrounding country; and we say to you, ladies and gentle-

men, and will prove to you, that there is no such physical surroundings as he has described. Now, these are the three witnesses who have placed Hauptmann in New Jersey at any time in the world, and we say to you if we do submit to you the facts as we relate them, proving them to you, as I am now telling you we will, we shall expect you to disregard entirely the testimony of these three witnesses.

As to the Alexander girl, we will show you in regard to her that she testified from this stand that it was in the middle of March she saw Doctor Condon in the station and saw Hauptmann looking at him and she was interested because she knew Condon was the contact man in the Lindbergh case. We will prove to you beyond a shadow of doubt that, except for this particular matter, the fact that Jafsie, who was Doctor Condon, was not known until . . . days and days and days after she says she was watching these men because she knew Condon was the contact man in the case. We will prove to you that Hauptmann never was in that station. We think we may be able to prove to you that Condon was never there. Now, if we do that, we certainly won't expect you to place any credence in the testimony of that girl.

Now, I want to come down for a minute, if I may, to the manner of the conduct of the police in this case. I want to show you what we will prove about it. We believe we will be able to show that no case in all history was as badly handled or as badly mangled as this case, and we refer specifically to the witness Kelly and his testimony about the ladder. Now, after Kelly had played around with that ladder—and we will prove this—for days and days and days, and couldn't find a print of any kind or description, after he had gone over the entire inside of the house and couldn't find a print, even of the people who put the baby to bed, they called in an expert, Doctor Hudson, of New York City, and in the sight of Kelly, we will prove to you, Hudson took off some eight hundred fingerprints. Now, we will say to you and prove to you that the whole investigation was conducted just about as thoroughly as that. The ladder, we will prove to you, has been torn apart, put together and replaced and torn down again. The nails have been drawn and were drawn and put back again. That ladder, we believe we will show clearly, is in no more the condition that it was the day it was found on the Lindbergh estate than that chair is in the condition the ladder is now.

Now, if we prove those facts, ladies and gentlemen, they are essential facts in this case. If we show you that ladder has been so handled that it would be impossible now to identify it accurately as the one which was found in the hills, then we shall expect you to disregard all this testimony about the ladder. We will also prove to you this thing that I consider vitally essential and vitally important in this case. We will produce before you, we believe, the man who has always been considered by the state police of New Jersey to have been the last man and the only man to actually see the man who did the kidnaping. Now, that is a broad statement, but we intend to prove it. We will produce before you a man

who has been used by the State continuously as a witness in this case to show the man who was about a mile from the Lindbergh house at six o'clock at night on March first, with a ladder on his way to the Lindbergh home. We will show you further that that man has been in this very courtroom all through the State's case and hasn't been called. Now, if we produce a witness here, if we produce a witness here who will swear under oath on that stand that he was along Lindbergh's road on the night of March first, at six o'clock, and he saw a man driving down in an automobile with a ladder which he identifies as this ladder, and that man wasn't Bruno Richard Hauptmann, we expect you to consider that and consider it well in arriving at your verdict.

Now, ladies and gentlemen, we will submit this case to you as honestly and fairly as we know how. Again may I say we will be terribly handicapped by a total lack of funds. We are in no such position as is the State in this case with the combined resources of the United States, the State of New Jersey and the State of New York at their finger tips. We are here battling along with our back to the wall, so far as financing goes, and we will prove that on this witness stand, and we will do the very best we can. We will give you everything we have got, everything we can get, in this courtroom, by way of testimony. We will hide nothing and produce everything and, when you have heard all the testimony, we trust that if you are not already satisfied that the State of New Jersey has utterly failed to make out a case against Bruno Richard Hauptmann, we are quite sure you will be convinced, after you have heard such testimony related as we will present. Now, we will rely on you fully to consider all the facts and circumstances and, having considered all the facts and circumstances well, in conformity with your oath, we shall expect you to retire to the jury room and to return and return promptly with a verdict acquitting this man of the crime with which he is charged. Thank you.

MR. WILENTZ: If your honor please, Mr. Reilly is going to call the defendant as his first witness. We have agreed and want the jury to know it is by agreement that the sheriff's guard will be in back of the witness.

MR. REILLY: Not a uniformed officer, the sheriff's guard.

MR. WILENTZ: I want it to appear it is by agreement of counsel.

MR. REILLY: We don't want the Court to be disturbed; it is only for that reason.

THE COURT: All right; proceed.

MR. REILLY: Bruno Richard Hauptmann, take the stand.

### BRUNO RICHARD HAUPTMANN

*Direct examination by MR. REILLY:*

Q. You are the defendant in this action; is that correct? A. It is.

Q. Where and when were you born? A. Twenty-sixth of November, 1899, Germany.

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Q. What part? *A.* Saxony.

Q. Did you go to school? *A.* Yes.

Q. For how many years? *A.* Well, eight years public school, and two years—two to three years, like a trading school.

Q. And in the public school did you learn to write German? *A.* I did.

Q. In the regular German script, is that correct? *A.* Yes.

Q. Did you learn to write any English in Germany? *A.* No.

Q. And after you left school you say you attended a trade school; is that correct? *A.* Yes.

The defendant said he was apprenticed at the age of fourteen, after having studied machinery and carpentry. He was a carpenter's helper until he went to war, at seventeen. He served a year and nine months, was slightly wounded and gassed. About Christmas, 1918, he returned to his home town.

Q. Were you able to get any work at that time? *A.* No.

Q. Germany was in a very poor condition, wasn't it? *A.* It was.

Q. Now, during the period of reconstruction in Germany, about 1919 and 1920, you were convicted of some offense there; is that correct? *A.* I was.

Q. And when was it? *A.* The springtime, 1919.

Q. And as a result of that did you serve any sentence? *A.* Yes.

Q. Where? *A.* Beuthen, B-e-u-t-t-h-e-n.

Q. And afterwards were you paroled? *A.* Yes.

Q. By the Parole Board? *A.* Yes.

Q. About when? Was it about March 26, 1923? *A.* Yes, I guess that is right.

Hauptmann said he first attempted to enter the United States in 1923, boarding a steamer as a stowaway. He was discovered on the ship and was sent back to Germany from Ellis Island. In August of the same year he made a second attempt, which was also unsuccessful. In November he tried again, and this time succeeded. For a month and a half he worked as a dishwasher near the South Ferry, New York City. Successively he worked briefly as a mechanic, a dyer and, finally, as a carpenter. On his first job he earned a dollar an hour. In 1924 he met Anna Schoefler, after which he moved to a house in Yorkville (New York's German center). In October 1924 he obtained work as a carpenter in Lakewood, New Jersey, this job lasting "until Christmas Day." On this work his pay averaged around fifty dollars a week.

Q. Well now, were you spending all the money you made, or were you saving it? *A.* Well, I spent very little, I say.

Q. Did you open a bank account at any time or did you keep the cash with you? *A.* I opened right in the beginning a bank account, United States bank.

Q. When did you and Anna Schoeffler marry? A. The tenth of October 1925.

Examination of the defendant was interrupted at this moment, by agreement of counsel, for the examination of

### CHRISTIAN FREDERICKSEN

*Direct examination by MR REILLY:*

The witness owned a lunchroom and bakery at 3815 Dyer Avenue, the Bronx, in 1932. Anna Hauptmann was a counter girl and waitress in his shop in March 1932. Fredericksen's wife, who also worked in the lunchroom, customarily took Tuesday and Friday nights off, and on such occasions Mrs Hauptmann worked.

Q. And on Tuesdays and Fridays would Anna come to work at seven o'clock in the morning? A. Yes.

Q. And on Tuesdays and Fridays during February and March 1932, what time would Anna be through her work? A. Oh, I would say usually around nine o'clock.

Q. And who would come and take her home? A. Well, her husband usually always come; as a rule he always come.

Q. And when the husband brought her to work, did he drive her there in his car? A. Yes.

Q. And when he came to take her home he would come with the car and take her home? A. Yes.

Q. Well now, do you know that March 1, 1932, was a Tuesday night? Do you know that? A. Yes, I know it.

Q. Now, is it the best of your recollection, Mr Fredericksen, that Tuesday, March 1, 1932, being a night that Anna Hauptmann was in the habit of staying late—do you say to the best of your recollection that Bruno Richard Hauptmann, her husband, called for her that night?

MR WILENTZ: Just a minute. If your honor please, I object to the question as being offensively leading, because he doesn't say that.

THE COURT: Well, he may be asked as to what his best recollection is.

MR REILLY: That is what I am asking. I will put in the word "best."

MR WILENTZ: No. I think what your honor suggested is accurate; what his recollection is as to that night.

THE COURT: Yes. What his best recollection is. Of course, he may be cross-examined with respect to this matter. I think the examination may proceed.

MR REILLY:

Q. What is your best recollection, mister? A. My best recollection is that Bruno usually called for her; he must have been there that night, too, but I can't swear to it.

Q. How long did Mrs Hauptmann work for you? *A.* She works there from '29 until I guess the twenty-second of June 1932.

Q. Have you any independent recollection now as to what time on March 1, 1932, your wife returned home? *A.* I should imagine she come when she usually come; she usually come around ten or eleven o'clock.

Q. Then it wasn't anything unusual for your store to be open at nine, half-past nine or ten o'clock at night? *A.* Oh no; oh no; that was every night; I worked every night.

*Cross-examination by MR WILENTZ:*

Q. You told the police in New York that you close your bakery at eight o'clock every night, didn't you? *A.* That is the closing time, but I work at nights and I keep the store open, so if somebody come in they can get something.

Q. But your closing hour was eight o'clock, wasn't it? *A.* That is right. But I didn't close the store, just the same.

Q. Now, you remember reading about the Lindbergh kidnaping, didn't you? *A.* Yes, I do.

Q. I want to know whether you read it at that time when it happened? *A.* Yes sir.

Q. You remember, then, you read it? *A.* Yes.

Q. The next day? *A.* Yes.

Q. And when you read that the next day—that fixes in your mind, doesn't it, that the night before was the kidnaping, the night before you read it; isn't that so? *A.* It must have been.

Q. Must have been. You don't remember whether your wife was there that night or whether she had the night off, do you? *A.* On Tuesday she was off.

Q. Well, the only reason you say that is because you know now it was a Tuesday? *A.* I beg your pardon. She was out every Tuesday.

Q. Yes. Let me ask you: when you were asked when Mr Hauptmann was arrested you came to the Bronx district attorney's office, didn't you? *A.* I was called for.

Q. And you came there? *A.* Yes sir.

Q. And you were asked questions? *A.* Yes.

Q. And they told you, the detective told you coming down, that March first was a Tuesday, didn't he? *A.* Right.

Q. You knew that when you walked in to talk to Mr Breslin? *A.* Yes.

Q. And you knew all the time that March the first was a Tuesday? *A.* Yes.

Q. When he was talking to you? *A.* Yes.

Q. You knew the whole question was about the Lindbergh case, didn't you? *A.* Yes.

Q. Yes. And you were asked this question: "You have no definite recol-

lection that your wife was off that Tuesday night?" You were asked that question, weren't you? *A.* I don't recollect.

*Q.* And didn't you answer, No, you have no definite recollection that your wife was off that Tuesday night? *A.* But we think it is; we speak of things over after and my wife make me sure. She was always off on Tuesday.

*Q.* She was off. And so you think that Mrs Hauptmann must have been there because your wife was off? *A.* Absolutely.

*Q.* But Hauptmann was not there that night, was he? *A.* I can't swear to it.

*Q.* You didn't see him there that night, did you? *A.* I can't swear to it.

*Q.* You can't remember; you don't know whether you saw him there or not? *A.* No.

*Q.* When you were talking to Mr Breslin and you knew that Mr Hauptmann was arrested— *A.* Yes.

*Q.* —and you knew that Tuesday, March first, was the night of the kidnaping— *A.* Yes.

*Q.* —and you were asked about him, because you knew he was there in jail, charged with this serious crime, weren't you asked this question: "Do you know whether her husband," meaning Hauptmann— *A.* Yes.

*Q.* "—was there that Tuesday night?" And your answer was "No." *A.* Yes.

*Q.* Isn't that what you said? *A.* Yes.

*Q.* So you don't know whether he was there at all? *A.* No, not positive sure; I can't swear to it.

*Redirect examination by MR REILLY:*

*Q.* Well, wait a minute. You are giving us your best recollection; is that right? *A.* That is it; yes sir.

*Re-cross-examination by MR WILENTZ:*

*Q.* Just one minute, Mr Fredericksen. You remember that some Tuesday nights Mrs Hauptmann complained that her husband didn't come? You remember that, don't you? *A.* Yes, but that is long before that time; that time we had two girls.

*Q.* But you do remember there were some Tuesday nights when he didn't come? *A.* Yes.

*MR REILLY:*

*Q.* What year? *A.* Oh, that was maybe a year before.

## MRS KATIE FREDERICKSEN

*Direct examination by MR REILLY:*

The witness was the wife of the previous witness. She corroborated the fact that she worked at his lunchroom and that she habitually took Tuesday and Friday nights off and that Mrs Hauptmann worked on those occasions in her place.

Q. Now, do you remember Tuesday, March 1, 1932? A. Vell, I remember I were out.

Q. That is the night of the Lindbergh kidnaping? A. Yes.

Q. And that was a Tuesday night? A. Yes sir.

Q. Do you remember the next day, or sometime during late at night, hearing about the kidnaping? A. Yes, we spoke about it the next day.

Q. And the next day was a Wednesday, wasn't it? A. Yes sir.

Q. Had you been out the Tuesday night before that? A. Yes sir.

*Cross-examination by MR WILENTZ:*

Q. Of course you didn't see Mr Hauptmann bring Mrs Hauptmann to work in the morning? A. Because I wasn't there so early.

Q. You never saw him bring her there in the morning, did you, madam? A. I couldn't say; I wasn't there.

Q. You were not there? A. No.

Q. And you weren't there Tuesday night, March first, were you? A. No. I come in later on.

Q. Well, you weren't there that night, were you? You don't know who was in the store the night before, do you? A. Well, I can always depend upon her.

Q. You weren't there, were you, madam? A. No.

Q. So what you know is that on Tuesday night, that night you were off; is that right? A. Absolutely.

Q. But you didn't see her in that building that night? A. No.

*Redirect examination by MR REILLY:*

Q. Now, do you recall going to Mr Hauptmann's home one evening when somebody was about to leave for Europe? A. Yes sir; that was about the twenty-eighth of November 1933.

Q. Where did Mr Hauptmann live then? A. Two hundred and twenty-second Street.

Q. And how long were you there at that gathering? A. There was no gathering. I went up to see Anna's baby.

Q. Well, how long were you there? A. Oh, couple hours.

Q. Was Fisch there when you arrived? A. Yes sir.

Q. Was he there when you left? A. We went together.

Q. Who went together? A. Fisch and I.

Q. Where did you meet Fisch that night? A. He went in my car.

Q. Where did you meet him? A. In Anna's house.

Q. Did you drive him someplace? A. I drove him down to Pelham Station.

Q. How long had you been in his company that night, in Mrs Hauptmann's house? A. Oh, about two or three hours.

Q. Now, did you see Fisch have any money the night of the party?

MR WILENTZ: I object to that as being leading, if your honor please.

MR REILLY: I don't know how I can direct her attention to money.

If I say, "Did you see him have anything that night?" she could say handkerchiefs or a penknife or anything else.

MR WILENTZ: Well, I submit it is not material.

MR REILLY: A particular and peculiar kind of money might be.

THE COURT: It might be material if you can connect it up. Answer the question. Did you see Fisch have any money?

MR REILLY:

Q. Did you see Fisch have any money? A. Yes.

Q. Greenbacks or paper money? A. Well, I were driving so—

Q. What? A. I were driving so I couldn't tell the color of the bills.

The witness was vague as to the circumstances of seeing the money.

[NOTE: *This was the first attempt of the defense to show that Fisch habitually carried money on his person.*]

### BRUNO RICHARD HAUPTMANN [resumed the stand]

*Direct examination by MR REILLY [continued]:*

Q. After you were married, where did you and your wife go to live?

A. Well, first I live for about one week or two weeks on 154th Street, between Fourth and Amsterdam Avenue. After that I moved to, I guess, 122nd Street, Park Avenue.

Q. Were you out of work very often during 1925 to 1929? A. Not very often.

Q. Well now, do you remember during 1928 and 1929 that you worked for someone Saturdays and Sundays, some friends of yours? A. Oh yes. We build three houses after working time; that means after the usual working hours—Saturday afternoon and Sundays.

Q. Now these three houses were being built by friends of yours, were they? A. Yes.

Q. What was the name of the friend? A. Mr Haberland.

Q. And how much did you make on the job at working overtime in your odd hours on that job of three houses? A. It was approximate one thousand dollars.

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Q. And how much of that did you save? *A.* Well, I took some to the bank, and some of the money I always keep in the house.

Q. Did you keep some of the money in the house? *A.* Yes, always. That is a habit I have.

Q. Now, do you remember about how much you had in your house at the end of 1929? *A.* In 1929 I would say three thousand.

Q. Three thousand? *A.* Three thousand, three thousand five hundred.

Q. In cash? *A.* In cash.

Q. And that was money you had made as a carpenter? *A.* Yes.

Q. And saved? *A.* Yes.

Q. Was Anna working all the time until practically the birth of the baby? *A.* Well, she worked all the time with the exception of two times she went to Jurope.

Q. When did she first go—

MR WILENTZ: Just a minute. He said "Jurope", didn't he?<sup>1</sup>

MR REILLY: Europe.

MR WILENTZ: But I mean with a *J*. All right.

MR REILLY:

Q. Where did she go? *A.* To her home town.

Q. Did she go to visit some relatives of hers in Europe? *A.* Her parents.

Q. When was her first trip to Europe? *A.* Summertime, '28.

Q. Had she worked steadily since she came to America up to the time she made the first trip to Europe? *A.* With the exception of one month, one or two months, when we get married.

Q. How much did Anna make a week? *A.* She makes about twenty or twenty-five dollars, I guess, and about five to eight dollars tips.

Q. About thirty or thirty-three dollars a week? *A.* Yes.

Q. Did she save most of it? *A.* Well, we kept our household from the money from my wife.

Q. The running expenses came from the money Anna made? *A.* That is it. I used to save my wages.

Q. You used to save your wages. Now, when she went over to Europe in 1928 how much did she pay for her ticket? *A.* I can't recall.

Q. Did she go second class, tourist class— *A.* No, she went third class.

Q. I suppose she went on a German boat? *A.* Yes.

Q. Third-class round-trip ticket to Germany didn't cost any more than maybe three or four hundred dollars, if it cost that much, did it? *A.* You mean the ticket alone?

Q. Yes, the ticket alone, round trip. *A.* No, the ticket alone cost around two hundred dollar, I guess.

Q. And how long did she stay over there the first trip? *A.* Approximate four months.

<sup>1</sup>In the ransom notes the word "you" was usually written "jou."

Q. And when did she make her second trip to Europe? *A.* Summer-time, 1932.

Q. Did she go the same way, third class? *A.* No, I guess she went tourist class.

Q. Was that the year she took over Mrs Achenbach's child? *A.* No, she took the child in 1928.

Q. Did she go over with anybody in 1932? *A.* No, she went alone.

Q. Do you know how much she paid for her accommodations in 1932? *A.* I really don't remember.

Q. How long was she over there? *A.* Three or four months.

Q. Now, in the early part of July 1931—do you recall that period? *A.* Yes.

Q. You decided to go and take a trip to California; is that right? *A.* Well, it was decided eight years ago already.

Q. Well, did you decide to go then in 1931? *A.* Yes.

Q. Can you tell us now about how much you had in cash just before you started for California in 1931? *A.* You mean by "cash" all the money in my possession?

Q. In the house; in the house, yes. *A.* Oh, in the house. It was approximate a little bit over four thousand dollars.

Q. Can you remember now, without referring to your bank account, how much you had in the bank at that time? *A.* Around five—five hundred or seven hundred; I really don't know exactly how much there was.

Q. Altogether you had about five thousand dollars, didn't you? *A.* I think there was more.

Q. In the bank and in the house? *A.* Yes.

Q. Now, when, in July 1931, did you start for California? *A.* The fifth; the fifth July.

Q. Did anyone go to California with you and your wife in '31? *A.* Mr Kloepenborg.

Q. Anybody else in the car besides Kloepenborg, you and your wife? *A.* No.

Q. How long were you three away on that trip? *A.* I guess three months.

Q. And that brought you back about the end of September, early October? *A.* Yes.

Q. When did you buy your Dodge four-door sedan? *A.* March '31.

Q. How much did you pay for it? *A.* Seven hundred and twenty-five dollars in cash.

Q. And is that the car that you had when you were arrested? *A.* That is the car.

Q. When was it that you first began to go to Hunters Island? *A.* That was '28, twenty—I guess '28.

Q. Now, will you describe the portion of Hunters Island that you Ger-

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man people used to use up there? *A.* It is the southern shore of the island.

*Q.* Well, did you have houses or huts or shacks there, or what did you have? *A.* Oh no, not that. Everybody got his particular place. Some of them builded a little bit like a shack up, some put up a tent, and some got nothing at all, only got a certain space cleaned with stones; that is all. There is no regular place.

*Q.* And were you and the other German friends of yours in the habit of visiting that portion of Hunters Island in the spring and in the summertime? *A.* Oh, there were lots of us.

*Q.* When would you go up there, on week ends? *A.* Usually week ends, Saturday evening or afternoon.

*Q.* Stay all night or would you come home? *A.* Came home usually.

*Q.* Sometimes you would go back on Sundays, would you? *A.* Yes.

*Q.* Tell us what they would do up there, Saturdays and Sundays? *A.* Well, we usually went out to the island early in the morning, take a bath, cook some coffee, like the camping life, and we played soccer, cooked our meals, whatever it was, and sometimes playing cards, making music. We would keep going until eight o'clock in the evening and then went home.

*Q.* It was just camping? *A.* Yes.

*Q.* Roughing it? *A.* Yes.

*Q.* Would Mrs Hauptmann go along with you on those parties after you were married? *A.* Well, sometimes—this time she got the work on Sunday and she couldn't come, and I usually went just when she got work on Sunday; I usually went home around about five o'clock. When she was quitting work, and then I was home.

*Q.* Now, was the reason for your wife's second visit to Germany the fact that her mother was celebrating her seventieth birthday? *A.* It was the only reason.

*Q.* Now, did you meet in Fredericksen's bakery one of their customers who worked in an employment agency on Sixth Avenue, New York? *A.* Yes, it was in the early part of '32.

*Q.* Early part of 1932? *A.* Yes.

*Q.* Can you tell us what month? *A.* February.

*Q.* After meeting that man did you go to the agency? *A.* Yes.

*Q.* Have I the name correct: Reliable Employment Agency, or Reliance? *A.* Yes, that is, Reliance.

*Q.* Did you pay the ten-dollar fee there? *A.* Yes.

*Q.* Where was the first job you got through that agency? *A.* That first job was Majestic Apartments.

*Q.* Now, do you remember what date it was in 1932 that you went to this agency? *A.* It was twenty-seventh of February.

*Q.* Now on the twenty-eighth—what day of the week was the twenty-seventh, do you remember? *A.* Well, I remember twenty-seventh was a Saturday.

Q. Yes. Well then, on the twenty-ninth, Monday, did you go anyplace looking for work as a result of being at the agency? A. No, I, on the twenty-ninth, on a Monday, in the morning, I sharpened the tools and put the tools in the car and went down to the Majestic and put the tools in the carpenter shop and I left.

Q. Of the Majestic Apartments? A. Yes.

Q. Now, did you go back there any time after the twenty-ninth of February, to the Majestic? A. I went back on the first of March. I was down eight o'clock in the morning.

Q. Nineteen thirty-two? A. Yes.

Q. And when you got down there to the place did you go to work? A. I got to see the superintendent first.

Q. Did you see him? A. I saw him. I got to wait a little while, about a half-hour. Then he said he couldn't put me to work and I got to come back on the fifteenth of February, because he said he only hires men on the first and on the fifteenth.

Q. Now do you mean the fifteenth of February or the fifteenth of March? A. The fifteenth of March, I mean. Excuse me.

Q. When do you say now that you first went to work at the Majestic Apartments? A. It was the fifteenth.

Q. Of March? A. Of March.

Q. And how long did you work at the Majestic Apartment? A. I quitted on second of April.

Q. Now, April 2, 1932, was a Saturday, wasn't it? A. It was.

Q. And what time did you go to work on April second? A. The usual time.

Q. What was the usual time in New York? A. I left the house at seven o'clock in the morning.

Q. Seven? A. Seven o'clock in the morning.

Q. And you worked until what time for lunch? A. Lunchtime was twelve o'clock.

Q. And came back at one, is that right? A. Yes.

Q. And then you worked until what hour in the afternoon? A. We worked until five o'clock.

Q. Do you say positively that you did work on April second? A. Positively.

Q. And you were paid for it? A. Paid for it.

Q. And it is a fact, isn't it, as testified to by the timekeeper, that the following day was a Sunday? A. Yes.

Q. And the next day was a Monday? A. Yes.

Q. And that you did not do any work after Monday; you resigned on Monday? A. I originally resigned on Saturday; on Monday I went down to try to get my pay check, but I get answer I got to wait until the fifteenth.

Q. Now you were supposed to get a hundred dollars a month, weren't you? A. Supposed to get it.

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Q. Yes. As a matter of fact, all they gave you was eighty, isn't that right? *A.* Yes.

Q. And that is why you threw up the job, isn't it? *A.* Yes.

Q. Did you get your pay check on the fifteenth? *A.* I did.

Q. Of April? *A.* Yes.

Q. And about what time, do you recollect now, if you can, did you arrive home that Saturday night, April 2, 1932? *A.* Around six o'clock.

Q. Now, do you recall the evening of April 2, 1932, after supper? *A.* Well, when I came home, my wife was home already and around seven o'clock Mr Kloepenborg came in the house.

Q. Yes. *A.* Came in the house because this is usual; our music evening is the first Saturday in every month.

Q. Now, did anybody else come there that night? *A.* No, I don't think so.

Q. Do you recall a fellow—did you know a fellow named Jimmie? *A.* I only know him by name, Jimmie; but I don't know his regular name.

Q. Now, who was there that you recall? *A.* My wife, Mr Kloepenborg, myself, of course, and about Jimmie, I am not quite sure if he was there or not.

Q. Now, I want you to explain to the jury before you leave the witness stand, if you will, what you mean by the first Saturday of the month, music evenings; what did you do and what happened in your home? *A.* Well, he was playing the guitar and I was playing the mandolin and we used to play together and enjoy ourselves for about hour, hour and a half, to keep in practice.

Q. And how late was this monthly gathering? When would it wind up, what time? *A.* Not before eleven o'clock, eleven, twelve o'clock, altogether.

Q. Now, on April 2, 1932, after you came home from work in the neighborhood of six o'clock, did you ever leave your home that night? *A.* No sir.

Q. You were in your house all the time? *A.* All the time.

## EIGHTEENTH DAY

*Flemington, N. J., January 25, 1935.*

BRUNO RICHARD HAUPTMANN [*resumed the witness stand*]

*Direct examination by MR REILLY [continued]:*

*Q.* The apartment from which you were arrested, what street was that? *A.* Two hundred and twenty-second Street.

*Q.* And how long had you lived in that apartment? *A.* Two years.

*Q.* You had nothing to do with building that house, did you? *A.* Nothing at all.

*Q.* Now, the time you married your wife, did she have a bank account? *A.* Yes.

*Q.* In what bank? *A.* Central Savings Bank.

*Q.* And did she continue to deposit money in that bank? *A.* Yes.

*Q.* Do you remember the winter after you were married? *A.* Yes.

*Q.* Did you buy a lunchroom at 223rd Street and Lexington Avenue? *A.* I did.

*Q.* From Albert Diebig? *A.* I did.

*Q.* How much did you pay for that lunchroom? *A.* Nine hundred dollar in cash.

*Q.* How long were you in business there with Diebig? *A.* Only four, six weeks.

*Q.* Then did you sell it? *A.* I sold it, yes.

*Q.* For how much? *A.* Thirteen hundred.

*Q.* Made a profit of \$400 on it, is that right? *A.* That is right.

*Q.* Now in 1929, including the mortgage of \$3750, how much do you say you were worth in cash and bank accounts? *A.* You mean on the end of '29?

*Q.* The end of '29. *A.* That includes the mortgage, the money we have in the bank and my money still kept home, approximate nine thousand dollars.

*Q.* What year did you enter the Wall Street market? *A.* I guess it was the end of '29.

*Q.* And you bought and sold stocks right up to the time of your arrest? *A.* Yes.

*Q.* Now when did you first meet Isidor Fisch? *A.* Suppose the early part of March or the early part of April 1932.<sup>1</sup>

<sup>1</sup>Other witnesses testified Fisch was introduced to Hauptmann in July or August.

Q. Where did you meet him? *A.* Hunters Island.

Q. Who introduced you to him? *A.* Well, nobody; he was just on our place, where we used to be always; he was a German and we got in conversation.

Q. After meeting Isidor Fisch, how soon after that did he suggest, or you suggest, that he participate in the market deal? *A.* That was in May.

Q. Nineteen— *A.* Same year.

Q. Nineteen twenty-nine or thirty or thirty-one? *A.* Thirty-two.

Q. Thirty-two. Did he go anywhere with you in relation to Wall Street? *A.* Well, used to go to Steiner Rouse & Company.

Q. Steiner Rouse & Company. *A.* And to regulate this—I didn't have any account with Steiner Rouse & Company this time; my account was by Carleton, Mott & Company, Broadway. I watched the board at Steiner Rouse & Company.

Q. Where was Steiner Rouse & Company, where you watched the board? *A.* Eighty-sixth Street, between Third and Lexington Avenue, New York.

Q. Near the Yorkville district, is that correct? *A.* Yes.

Q. Did Fisch give you any money to buy stock? *A.* Yes, he did.

Q. When was the first transaction that you recall Fisch giving you money? *A.* It was, I guess it was around in August that year.

Q. Thirty-two? *A.* Yes.

Q. Now, did Fisch visit your home? *A.* Yes.

Q. What business was Fisch in? *A.* Fur trading.

Q. Did you afterwards become his partner? *A.* Well, we kept it this way: he kept care of his line of business and I kept care of the stock.

Q. And what interest did you have in the fur business, what percentage, if any? *A.* I make it half and half.

Q. And when did you go into the fur business with Fisch? *A.* The first transaction was in middle of May '32.

Q. Did you advance him any money? *A.* I give him \$600, the first transaction.<sup>2</sup>

Q. How much did the fur business—what profit did the fur business make in the first year? *A.* I didn't check it up yet.

Q. Well, did you ever receive any money from the fur business? *A.* Oh yes.

Q. Large sums? *A.* Large sums and small sums.

Q. What was the largest sum you say you received as your share in any one year from the fur business? *A.* I guess the largest sum over a thousand dollars.

Q. How much? *A.* Over a thousand.

Q. Now, was the fur business carried on under any particular name,

<sup>2</sup>Where did Hauptmann get this \$600? He didn't have it in April 1932.

trade name or partnership name? *A.* No, it is only under Isidor Fisch.

*Q.* Do you remember when Fisch went to Europe? *A.* I do.

*Q.* When was that? *A.* December '32.

*Q.* December 1932? *A.* Thirty-three.

*Q.* He never returned, did he? *A.* No.

*Q.* Now, before Fisch went to Europe, did he call at your house? *A.* He called several times at the house.

*Q.* When was the last time he was at your house before he sailed for Europe? *A.* The night before he sailed.

*Q.* Who was at your house, as you recall it now? *A.* Mrs Fredericksen, my wife and I.

*Q.* Anyone else? *A.* No.

*Q.* Did anybody come in during the evening, any of your friends, that you remember? *A.* Can't remember.

*Q.* Did Fisch have anything with him, any bundles or anything, with him the night before he sailed? *A.* No sir.

*Q.* Well, before he sailed did he leave anything with you for you to take care of while he was in Europe? *A.* Well, he left two suitcases.

*Q.* What else? *A.* Four hundred skins, Hudson seal.

*Q.* What else? *A.* And a little box.

*Q.* Now the 400 skins—or what kind of skins were they? *A.* Hudson seal.

*Q.* Hudson seal. And they were skins that were purchased in your partnership between Fisch and yourself? *A.* Yes.

*Q.* And did you have those skins in your possession when you were arrested? *A.* Yes.

*Q.* And are they now, as far as you know, in the possession of the New York City police? *A.* I guess they are.

*Q.* Now this little box that you described, what kind of a box was it—paper, cardboard or wood? *A.* Well, I find it later out it was a shoe box.

*Q.* What was it made of? *A.* Well, cardon.

*Q.* Carton, cardboard? *A.* Yes.

*Q.* Now, will you describe to the jury under what circumstances it was that he left this shoe box with you, what he said and what you said? *A.* Well, of Mr Fisch request it was he was throwing a party when he left for Chermany; it was at his request in our house; we invited a couple of friends and about nine o'clock or a short while before nine o'clock, Fisch came out and got a little bundle under his arm. I answered the doorbell; my wife was in the baby's room. He came out and we went in the kitchen and he said, "I leave it, I leave it something, if you don't mind, keep care of it and put it in a tight place." I didn't ask what is in it; he only said that is paper in it. I thought may be they are—

MR WILENTZ: Just a minute.

*A.* —they are bills.

MR WILENTZ: Just a minute. Now, I object to what he thought.

THE COURT: Never mind.

MR WILENTZ: I object to what you thought.

MR REILLY:

Q. Tell us what you did, not what you thought. *A.* I put it in a broom closet.

Q. And where was the broom closet in your apartment? *A.* The broom closet was in the kitchen.

Q. In what part of the broom closet did you put it? *A.* Please?

Q. In what part of the broom closet? *A.* On the upper shelf.

Q. And how long did that shoe box remain there before you disturbed it? *A.* The middle of August '34.

Q. Thirty-four? *A.* Yes.

Q. And what caused you to disturb it? *A.* I was looking for—it was Sunday; it was nasty weather outside—was looking for a broom. I took the broom. The broom is on the left side in the closet. And when I took the broom I must hit the box with the broom handle, and I looked up, and that way I saw that it is money. I damaged the box.

Q. And you saw money? *A.* Yes.

Q. In the box? *A.* Yes.

Q. Well now, had there been any moisture or wet or anything in that closet? *A.* All soaking wet.

Q. Were there some pipes that ran through the broom closet? *A.* Yes.

Q. What kind of pipes? Were they water pipes or gas pipes? *A.* No, no water or gas pipes. That is, I guess that is ventilation pipe, I guess, for toilets.

Q. Did you take the box down, the paper box down then, and you disturbed it? *A.* I put it in the boiler and took it down to the garage.

Q. What money did you see in that box? *A.* Only gold certificates.

Q. About how much? *A.* I didn't count it from the beginning.

Q. Is that the money that you afterwards started to spend? *A.* That is the money.

Q. Is that the money that was found in your garage? *A.* It is.

Q. And was Fisch dead at that time? *A.* Yes.

Q. How many satchels did he leave with you when he went to Europe? *A.* Two.

Q. What did you do with those satchels after his death? *A.* After his death I opened the big satchel and searched it for bills. I couldn't find anything in there and I closed it again and left it in the garage. That means the big satchel.

Q. While Fisch was in Germany did he write to you? *A.* Yes.

Q. I am pointing now to State's Exhibit 1, which shows the estate of

Colonel Lindbergh as of March 1, 1932. Hauptmann, were you ever in Hopewell in your life? *A.* I never was.

*Q.* On the night of March 1, 1932, were you on the grounds of Colonel Lindbergh at Hopewell, New Jersey? *A.* I was not.

*Q.* On the night of March 1, 1932, did you enter the nursery of Colonel Lindbergh— *A.* I did not.

*Q.* —and take from that nursery Charles Lindbergh, Jr? *A.* I did not.

*Q.* On the night of March 1, 1932, did you leave on the window seat of Colonel Lindbergh's nursery a note? *A.* Well, I wasn't there at all.

*Q.* You never saw Baby Lindbergh in your life, did you? *A.* Never saw it.

*Q.* Now, I want you to look at State's Exhibit 18, and the envelope in which it was contained, Exhibit 17. Did you ever see that note before? *A.* Why, I saw it in Bronx courtroom.

*Q.* That was the first time you saw it? *A.* It was.

*Q.* You never saw it except in the courtroom? *A.* No.

*Q.* Did you write it? *A.* I did not.

*Q.* Did you leave it in the Lindbergh nursery? *A.* I did not.

*Q.* March 1, 1932, you referred to here yesterday in a general way. Will you again tell the jury where you were from the time you got out of bed on the morning of March 1, 1932, until you went to bed that night, your movements that entire day? *A.* Well, I wake up about six o'clock, took the wife down to the bakery.

*Q.* About what time did you take your wife to the bakery? *A.* Between half-past six and a quarter to seven.

*Q.* How did you take her down? *A.* In automobile; in car.

*Q.* And again I ask you how many miles would you say it was from your home to the bakery? *A.* A good mile.

*Q.* She had to be there about seven o'clock, didn't she? *A.* Yes.

*Q.* How long did you remain at the bakery that morning? *A.* I didn't enter the bakery at all.

*Q.* Well, after Anna entered the bakery, where did you go? *A.* I went right home, put the car in the garage and went to White Plains Avenue subway station.

*Q.* Well, you testified yesterday you were nine or ten minutes walk from there. *A.* Six or nine minutes.

*Q.* And you took the subway, the White Plains, to some intersection? *A.* White Plains to 177th Street, and there I changed for Broadway subway.

*Q.* And where did you ride to? *A.* To Seventy-second Street, Broadway.

*Q.* And then where did you go? *A.* I went to the Majestic Hotel.

*Q.* And when you arrived there did you see anybody? *A.* Well, I went to the carpenter shop. Of course, my tools was down there already.

I took the tools down the day before and I was going to start to work. The foreman said I got to see the superintendent first.

Q. All right. Continue now your movements. A. When I saw the superintendent he said I can't start. Well, I showed him the letter from the agency. He said, "I am sorry, it is filled up." So I left the tools right in the Majestic and took the letter and went down to the employment agency where I get the job trying to get them ten dollars back what I paid for it. I couldn't get it, them ten dollars, and he said, "Come around next day; maybe something else coming in." And after that I went to another agencies and I went over to Radio City, which was under construction, trying to get a job over there, but I couldn't. And I went home around five o'clock, maybe a little bit later or earlier. I don't know.

Q. Now, when you arrived home, who was there, if anybody? A. There was nobody at home when I arrived.

Q. What time did you go back and call for Anna? A. I was there around seven o'clock.

Q. When you arrived at the bakery, who was there? A. My wife alone, my wife was alone there, but there were customers in there always.

Q. People come in and go out and buy things; is that right? A. Yes.

Q. Did the Fredericksens at that time have a police dog? A. Yes, they did.

Q. Did you do anything with that dog during the evening while waiting for Anna to finish her duties? A. Oh yes; I usually let the dog out for a walk.

Q. Did you take the dog out that night? A. I did.

Q. Tell us what you did there that night. A. When I came down I usually got my supper first. I took the police dog out and took it out on the street, sometimes for a quarter-hour, sometimes for a half-hour.

Q. On this particular night—that is what we are interested in—did you— A. I did.

Q. —take it out that night? A. I did, yes.

Q. Do you remember where you walked the dog? A. I went to the corner of the Boston Road, Boston Post Road, went a little farder up, came back again to the gasoline station; it is just the corner.

Q. Did you meet anybody? A. As far I can't remember. I met a gentleman. I guess he was put gas, gassing in the gasoline station, and he was talking about the—about this dog, und he was asking me where I get him. I told he doesn't belong to me. I don't know whether he was asking about interest from the owner; that is what I can't remember.

Q. But you remember meeting a man that talked to you about that dog? A. I do.

Q. On March first? A. Yes.

Q. At about what time of the night? *A.* I would say it would be between eight and half-past eight.

Q. What did you do? Did you bring the dog back to the restaurant? *A.* Oh yes.

Q. What time did you and your wife leave there? *A.* Came home before nine o'clock; it was after nine o'clock. I can't remember the exact time.

Q. Well, it would be fair to say it was in the neighborhood of nine o'clock; is that right? *A.* Yes, that is about right.

Q. Did you stay there? *A.* Took the car in the garage, went right away to bed.

Q. So that on March 1, 1932, I ask you again, were you in Hopewell, New Jersey? *A.* I was not.

Q. And on March 2, 1932, do you remember what time it was that you got up? *A.* The same time again, six o'clock, a little bit later.

Q. And did you and your wife go any place? *A.* I took the wife down to the bakery. After that I took the car down home in the garage again and went down to Sixth Avenue. In entering the subway station one, 225th Street, I read the paper and is the first time I read about the Lindbergh case.

Q. Then you read for the first time of the Lindbergh kidnaping; is that what you say? *A.* Yes.

Q. I now refer you to State's Exhibits S-21 and 20. Did you mail a letter in this envelope, addressed to Mr Colonel Lindbergh, Hopewell, New Jersey, on March 4, 1932? *A.* No sir.

Q. Did you write that envelope? *A.* I did not.

Q. Now, I show you the letter which was contained in that envelope, S-20. *A.* I did not write any letter like that.

Q. You did not write that letter? *A.* Did not write it.

Q. When was the first time you saw that letter, if you ever saw it before? *A.* Well, I saw some of them letters in Bronx courtroom.

Q. Now, do I understand you—and I don't want to lead you—I think you have answered it, though, that every day between March first and March fifteenth, you went through the usual routine of looking for work, except Sundays, of course? *A.* On, on March second I went down to the Majestic and took my tools up again.

Q. Now, when you took your toolbox up, where did you take it? *A.* Took it home to the garage.

Q. And how long did you keep it there? *A.* Well, at this time I was working for National lumber yard, sometimes in the week one day, sometimes three days, sometimes four—it depends just how the work was coming in.

Q. Was that in your neighborhood? *A.* Yes, it is White Plains Avenue.

Q. How much do they pay you a day? *A.* It was mostly on contract; mostly on contract.

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The witness again denied that he wrote or mailed any of the ransom notes or that he had ever known or seen Dr John F. Condon until after his arrest. He also denied, categorically, that he participated in either of the cemetery transactions with Dr Condon.

Q. You have seen this ladder here in court, haven't you? *A.* Yes.

Q. Did you build the ladder? *A.* I am a carpenter. [*Laughter.*]

Q. Did you build the ladder? *A.* Certainly not.

Q. You notice how it is constructed, do you? *A.* Yes, I notice it.

Q. Well, come down and look at it, please. [*Witness leaves witness stand and examines ladder.*] *A.* Looks like a music instrument.

Q. In your opinion does it look like a well-made ladder. *A.* To me it looks like a ladder at all. I don't know how a man can step up.

The witness denied he had taken a board from his attic and swore that the chisel found on the Lindbergh estate was never in his possession. On the night of April second the only time he left his home was to take Hans Kloepenborg to the subway station.

Q. On April the second, Saturday night, were you in St Raymond's Cemetery and did you receive \$50,000 from Doctor Condon? *A.* I did not.

Q. What time did this musicale or gathering in your house start on April second? *A.* Between seven and eight.

Q. Did you go out at any time that night? *A.* I did not. Oh well, I went out, around half-past eleven to bring——

Q. Where did you go? *A.* To bring Mr Kloepenborg to the station.

Q. That was the only time you went out that night? *A.* Yes. That means not to the station. That is to the streetcar line.

Q. Now, you have told us that you were in business with Fisch and—can you give me your best recollection of whether you did any dealing with Fisch in the market, through the firm of Carleton-Mott? *A.* No, not by Charles Mott.

Q. Now, it has been testified to, and these exhibits have been offered in evidence that concern your wife's account under the name of Anna Schoeffler. You have heard that testimony? *A.* Yes.

Q. It has been testified to that January 16, 1928, when she had a balance of \$411.16, that was transferred to a joint account of Anna and Richard; you have heard that? *A.* Yes.

Q. And that is correct, isn't it? *A.* That is correct.

Q. There is a withdrawal here after it became Anna and Richard, June 25, 1928, \$452.63 [*handing the exhibit to the witness.*] Can you recall the reason for the withdrawal or what you did with the money? *A.* Why yes, it must have been my wife went to Germany the first time. I am not quite sure, but I guess it is.

Q. Now I notice in 1928, September the seventeenth, a deposit of \$720 [*showing exhibit to witness.*] Can you give the jury any idea how

that \$720 deposit was made up, where you got it, what it was from? *A.* Well, I guess I can. This time I was working very hard, mostly evenings, Sundays, Saturdays, and I open an account, I open an account on White Plains Avenue; I open an account in the summertime, I think; I am not quite sure; and after a couple of months I closed this account and forward the money to the bank of my wife. That was \$720, something like that.

*Q.* Now, there are withdrawals here from the Anna and Richard account in 1928, last—rather, the thirtieth of November, twenty-ninth of December and the thirty-first of December; you withdrew three deposits—or rather, three withdrawals, and they total \$485 in all. Can you explain those withdrawals, the three there [*handing papers to witness*]? *A.* I really can't explain them withdrawals; sometimes it was lent money to friends if they need it and give it back after a couple of months in small lots; just how I got them—

*Q.* Well now, here is a withdrawal of \$2800, the first of November 1929. Can you recall anything about that withdrawal? *A.* Yes. That is—that is the money I put in the stock market.

*Q.* Now, here is a withdrawal in 1930, on the fourteenth of June, \$500; on the twenty-fifth of June, \$950. Can you recall why you withdrew that? *A.* I guess I put this money in the stock market, as far as I can remember.

*Q.* And then after these two withdrawals there is a deposit the next month the fourteenth of July, is there not, of \$302.50? *A.* It is, yes.

*Q.* Now, here is a withdrawal on March 9, 1931, of \$640. *A.* March thirty-first?

*Q.* March 9, 1931? *A.* Yeah.

*Q.* Can you explain where that money went? *A.* I guess that is the time I bought my car.

*Q.* How much did you pay for the car? *A.* Seven, seven hundred and twenty-five dollar.

*Q.* And here is a withdrawal of July 3, 1931, \$450? *A.* Yes.

*Q.* Can you explain where that money went? *A.* Trip to California, I guess.

*Q.* When did you go to California? *A.* July 1931.

*Q.* You came back, I think you said, in October? *A.* In October.

*Q.* Now, here we have a withdrawal of \$430, May 9, 1932. *A.* I guess this was one of the first money I put in Fisch's account on the fur business.

*Q.* Getting back to Fisch's trip to Europe. You said he left certain satchels and a shoe box with you; and when was it, to the best of your recollection, that you discovered any money in that shoe box? *A.* Middle of August '34.

*Q.* And I think you testified that you took it someplace, to the garage or someplace? *A.* Took it down to the garage.

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Q. Now, what did you do with the money when you got it to the garage?  
A. Put all the money in a—squeezed the water out first.

Q. Well now, what water are you referring to that was in the money?  
A. That is the waters coming through the roof.

Q. Well now, you will have to describe that to the jury and I don't want to lead you. What do you mean by "the water coming through the roof"? Explain it to the jury. A. There is a leak in the closet since we moved in; I complained a couple times to the landlord, but it never get fixed (I guess it ain't fixed now) and the water was running mostly right on the pipe. On them shelves it was standing most of the time and sometimes in the shelves was water standing as deep as that. [*Indicating with thumb and finger.*]

Q. Indicating about an inch? A. Three quarters inch.

Q. Now, this water that you complain of, will you explain to the jury how it got into the broom closet? A. It comes through the roof, the water.

Q. The water—you will have to explain to them how it comes down from the roof, if you can. A. There must be a leak around the pipe.

Q. You mean in their exit to the roof? A. Yes. It isn't—I guess them shingles doesn't cover close to the pipe so there was a space between them. I was never up to the roof and didn't see it.

Q. The water came on the outside of the pipe; is that it? A. Yes, yes.

Q. And flowed down into your broom closet, is that correct? A. Yes; and some of it flowed up on the ceiling and dropped down.

Q. And how many months had this paper or cardboard shoe box been in that closet before you disturbed it? A. Since I get it.

Q. Yes. And you got it in December 1933? A. Well, it was the last Sunday before he left.

Q. Now, describe to the jury without any leading from me, please, the condition of the money in the box as you saw it for the first time.  
A. Well, I—when I saw the money I took the box down and took it in a pail, because the water was running around my—down my arm in the sleeves, took it in the pail and carry it down to the garage.

Q. Well, was the money flat, rolled up, divided, or tell us more about the condition of it. A. It was—it was bundle.

Q. Describe the bundle. A. I guess it was four bundles in there.

Q. Four bundles? A. Dem—dem bundles was mostly mesh up, but must be wrapped in paper, not in thick paper, in thin wrapping paper, brown paper, and there was newspaper in the box, too. I guess they wasn't filled up at all; it was empty space; there was some newspaper; I didn't look on the newspaper at all. I took the money out, squeezed the water out, put it in the basket, loosened it a little bit, put it in the basket, and the rest—I mean the empty box and the paper—I put in the garbage.

Q. You took the money into the garage. What did you do with the money? *A.* Put it in a basket and covered it up. And then laid the basket up on the ceiling so nobody could see it—not exact lay it on the ceiling; I put it on the upper shelf which reached the ceiling, and put a nail and two strips in front of it and put another basket on top on the basket where the money was laying in.

Q. What was the condition of your account with Fisch when he sailed for Europe? How did you two stand on the accounts, on the fur business? *A.* Well, when he sailed we made what you say clean table, because we didn't know where we are and so on, and my account on the market was \$12,000 and there was five thousand five hundred in Fisch's mar—Fisch's account.

Q. You say your account was \$12,000? *A.* Yes.

Q. Explain, please, just what you mean by that. *A.* The stock I got in possession was worth twelve thousand dollar. That was on twenty-fifth or twenty-sixth of October 1934.

Q. Well, did you owe anything on that \$12,000 worth of stock or was that a margin? *A.* No, that was actual money. The stock was worth more, but the rest was margin.

Q. And how much of that \$12,000 belonged to Fisch? *A.* Only \$2500.

Q. The rest was yours? *A.* The rest was my money.

Q. Now on the fur angle, the fur end of it, how did you and Fisch stand on that? *A.* Fisch said he got \$21,000 of furs and there was a fur part of it I didn't take from Fisch, and there was some of the money from the stock market, I kept up for my money; them two together made \$5500, but I didn't take the money from it, because Fisch said he hasn't got any and I left it in his account.

Q. Now, did Fisch owe you money when he went to Europe? *A.* Well, when he went to Europe he said if I am willing to sell some of them furs.

Q. Furs, yes. *A.* Yeah. I said, "Why should you? You just bought a couple of weeks before." He bought it, I didn't buy it—and better him leave it. He said, "Well, can you give me \$2000?" I said "All right, I take \$2000 from my account and give it to you."

Q. Which account? *A.* From the stock account.

Q. Did you give it to him? *A.* I took a check out for \$2000, cashed a check and give it to him in cash.

Q. How long before he sailed? *A.* It was about two or three weeks before he sailed.

Q. Well now, have you in your memoranda that you made up in the prison the other night a record of how you and Fisch stood when he sailed? Or can you tell us that now? Did he owe you or did you owe him? *A.* Well, this was made out. He is interested in the stock market, in the lose or in the win. If I win he gets half and I get half; if I lose, he has to carry the half of the lose and I carry 'nother half. And the fur account is just the same way.

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Q. Now, when you struck your balance, before he sailed, what you call "a clean table"— A. Yes.

Q. Did you owe him anything or did he owe you something? A. Well, there was only the difference I got in his account, \$5500. But take \$2000 off, you got in mein account. That's \$3000. That's the difference.

Q. Then you cashed a check for \$2000? A. Yes.

Q. And gave him the money, right? A. Yes.

Q. Now, you knew, did you, that Fisch was dead when you found this money? A. I knew it, yes.

Q. Now, after drying it, what did you do with it then? A. Well, when I took it down I took a few of them—I guess two or three—out, and put in circulation.

Q. Now, you remember the twenty-sixth of November, every year after you were two years of age, don't you? A. Because it is my birthday.

Q. Yes. And you remember, do you, November 26, 1932, your birthday? A. Trying to; yes, I remember this birthday too.

Q. That was a Sunday. Were you down at the Sheridan Square Theater at half-past nine at night alone, with one of these ransom bills folded up in eight folds, and did you throw it in to the cashier, the lady that was here the other day, and ask her for a ticket? A. I just—

Q. Yes or no. A. You referred for 1932?

MR WILENTZ: Just a minute, now, you wanted an answer, and I understand—

MR REILLY: Yes, I will get an answer.

MR WILENTZ: I think the witness is trying to correct you on the year, maybe 1933.

MR REILLY: Thirty-two or thirty-three. Am I wrong in the years, General?

MR WILENTZ: He says you are wrong. He is trying to tell you.

A. I never was down in this theater.

MR REILLY:

Q. And you lived how many miles, would you say, away from Greenwich Village, to the Bronx up here? [Indicating S-174.] A. I would say it was around twelve, fifteen miles.

Q. Were you ever in that territory in your life? A. No sir.

Q. No matter what the date is? A. Makes no difference; I never was there.

Q. In checking my notes during the noon recess, I found that the date I wanted to inquire about was November 26, 1933, the date that Mrs Barr, I think her name is, says you passed in a five-dollar Federal Reserve Lindy bill to her window. I understand that you testified November the twenty-sixth is your birthday. Is that correct? A. That is right.

Q. Now, have you a recollection as to where you were on the evening of November 26, 1933? *A.* November 26, 1933, I was home, have a little birthday party at home there, a couple of friends present.

Q. Do you recall who was present? *A.* Mrs Miller, his little daughter, my wife and a friend of my wife from her home town in Germany and I.

Q. And what was her name, the name of the friend? *A.* I really only know her by Paul.

Q. Bruno, it is suggested and agreed by the general and myself that, as you indicate the sheet that you are testifying from, in the photo-stats, that you tell us what number of the account of what date it starts, so we may check from here.<sup>3</sup> Now, what sheet— Let's start with August eighth. Have you that sheet there? *A.* Yes, I got it in my hand.

Q. Yes. The entry of August eighth indicates a deposit, does it not, of Warner Brothers Pictures? *A.* Yes.

Q. Do you recall when you purchased that? *A.* That was 51 of Warner Pictures I bought long ago; I guess about three quarter of a year ago. I didn't mark it all down here on the sheet when I bought it.

Q. Well, I will ask you this question: Did you buy it when you had your account with the other firm? *A.* There was 51 of Warner Pictures left. In the same firm I bought in April '32 another 51 of Warner Pictures and 500 Curtiss-Wright.

Q. I know that, but while you were dealing with Steiner Rouse, you dealt in various kinds of stock, different companies; is that right? *A.* Right.

Q. Now, if you will look down the sheet you are looking at, Steiner Rouse, beginning August eighth, there is an item of cash that you put into the business or into the account, on September fifteenth, of \$170; right? *A.* That is right.

Q. Where did you get that cash from? *A.* One hundred seventy dollars came from the \$4300 I got in my home.

Q. Now, Bruno, on the question of cash that was deposited by you at any time in Steiner Rouse & Company, was one dollar of that cash, was there one dollar of that cash Lindy ransom money? *A.* There was no Lindy ransom money at all.

Q. We will pass to the next item of \$582.50 of cash put into the account by you on the nineteenth of September. Where did you get it? *A.* That is the first money Mr Fisch put in the market.

Q. Then I notice on October seventh a cash deposit by you to Steiner Rouse of \$860; correct? *A.* I put it in my name; dis money came from Mr Fisch to buy 100 New York Central Railroad.

<sup>3</sup>Throughout his testimony on financial transactions the defendant used his own notes and figures to "refresh his memory", as well as copies of the brokerage house sheets.



*Acme*

EDWARD J. REILLY

Hauptmann's defense counsel Number One. His showman's tactics, cutaway coats and blond secretaries were of little assistance.



*Acme*

C. LLOYD FISHER

Number Two member of Hauptmann's defense counsel. He was loyal to the end and sincere in his belief in Hauptmann's innocence.



Q. So that on the purchase of New York Central on October sixth, a credit, or rather a debit to you, against the firm, of \$2412.50; you say Fisch gave you \$860 to cover that transaction? *A.* That is right.

Q. During the early part of February [1933] I notice several purchases: Radio, and a purchase on the twenty-seventh of Curtiss-Wright, 200 shares; correct? And later on that day, Curtiss-Wright, 100 shares, Curtiss-Wright, 200 shares, and 100 Radio; is that correct? *A.* That is correct.

Q. And then I notice on the other side that the same day it indicates a cash deposit into Steiner Rouse & Company of \$700. *A.* Yes.

Q. Where did that money come from? *A.* This money I took from my bank. Just a minute. I am not quite sure. I will have it look it over.

Q. All right; look it over. *A.* [After examining photostats at length.] Yes, this \$700 I put in was—I took \$500 from my bank and there was \$200 was profit from furs. I put \$500 from the bank and \$200 from fur account, makes \$700.

Q. Yes. So that your answer, as I understood the stenographer to get it, was \$700 deposited in Steiner, Rouse & Company on the twenty-seventh of February, of which \$200 was profit from the fur business, and a \$500 withdrawal from the Anna and Richard Hauptmann account, in the Central Savings Bank of the City of New York, as indicated on their photostatic copy, February 27, 1933, draft \$500; correct? Now, it appears by the same sheet before you that in March 1933 there was \$850 placed in Steiner Rouse & Company; is that right? *A.* Will you repeat it again, please?

Q. [Question repeated.] March first, right? *A.* March.

Q. Now, tell us, please, where that \$850 came from? *A.* Eight hundred and fifty dollars came from Mr Fisch and he bought in January 100 New York Central.

Q. Now, on the twenty-eighth of April you deposited in cash, did you, \$2500? *A.* Yes.

Q. Where did that come from? *A.* In this month I bought from Mr Fisch 100 New York Central.

Q. When? *A.* April the third, and—

Q. And that purchase amounted to \$1537.50, didn't it? *A.* Yes, that is right; and on the nineteenth of the same month, 100 Southern Pacific amounts to \$1462.50; and on April the twenty-fifth, 100 Republic Steel amounts to \$1062.50. And that is the reason he puts \$2500.

Q. Did he give you that in cash? *A.* Always in cash.

Q. Now, May was a very active month, wasn't it? *A.* Yes.

Q. On May the third, there was a cash deposit of \$2575; right? *A.* Yes.

Q. Where did that money come from? *A.* Mr Fisch got a debit balance this time; he bought too strong in April and didn't sell much and

then he bought on the second of May another additional—not additional, another 100 Canadian Pacific Railroad share for \$1237.50, and he put this money of \$2575.

Q. In cash? *A.* In cash.

Q. Continuing on to the next sheet, May 24, 1933, no cash was placed in the account; is that correct? *A.* No. No cash put in, but in the same month I bought for Fisch 100 shares of American Rolling Mills for \$1587.50, and—I will have to look it over—and 300 Radio shares for \$2197.50.

Q. And your account ran along in trading, with yourself and Fisch buying and selling during May down to June seventh, is that correct? *A.* June second.

Q. For cash? *A.* Oh, for cash. Yes, June seventh.

Q. When \$2225 was put into the account? *A.* Yes.

Q. Where did you get that from? *A.* That Mr Fisch bought in June 500 Continental Motors, 100 Pittsburgh Screw and Bolt, 100 Alaska Juneau and 100 shares New York, Ontario & Western Railroad, and another 100 shares Interborough.

Q. How many points margin were you dealing on? *A.* It depends; sometimes I was on limit, which was about fifty per cent.

Q. Now, your purchases in June had been heavy, and your purchases in July had been heavy, had they not? *A.* Yes.

Q. July twelfth you bought 100 shares? *A.* Yes.

Q. On the seventeenth, 500; on the eighteenth, 300; nineteenth, 1000; another 100 in another block on the nineteenth; on the twentieth, 100, another block of 300, another one of 100. Now, did you deposit on the twenty-fourth of July \$4500? *A.* This date, \$4500; it was the last money Mr Fisch put in.

Q. And Fisch put in \$4500 in cash to cover the overlapping margin; is that correct? *A.* Yes, because I bought very lightly this month for myself.

Q. And you did in that month about \$49,300 worth of business on the books of Steiner Rouse; is that right? *A.* Yes.

Q. Where you had done the month before \$50,000? *A.* Yes.

Q. Your balance the month before, the debit balance that you owed Steiner Rouse & Company was \$7973.72? *A.* Correct.

Q. And it had been reduced by profits and deposits at the end of July to \$4038 debit? *A.* That is right.

Q. Now, we come to December; November and December. You began to trade, did you, December first? *A.* Yes, I did.

Q. Purchased on the first, sold on the fourth, back and forth, down to the end of the month; and no cash was placed in the account, was it? *A.* No cash was placed. Would you mind to go back to the last sheet you got in your hands?

Q. Yes, you may go back to the last sheet. *A.* There you find a check I took out for Mr Fisch on November the fourteenth, \$2057.

Q. You drew that out of the account? *A.* I drew it out from this account. There was a drawing on November the second. That was for living.

Q. And what did you do with that check? *A.* The big check, for \$2057, I cashed in the bank—I forgot the name of the bank, the bank on Eighty-sixth Street.

Q. Who did you give the money to? *A.* Two thousand dollars I give to Mr Fisch for his voyage to Germany; the rest I keep for myself, \$57. There was a drawing on November twenty-first. That is the usual drawing I took out every month since then, a hundred or a hundred and fifty dollars a month.

Q. Now we come to December 31, 1933, and Fisch had already sailed for Europe, right? *A.* Yes.

Q. And we find the January 1934 account very active, don't we? *A.* Yes.

Q. Buying the second, third, fourth, fifth, ninth, eleventh, twelfth, fifteenth, sixteenth, nineteenth and twenty-fourth? *A.* Yes.

Q. Selling the third, fourth, fifth, tenth, seventeenth and eighteenth? *A.* Yes.

Q. Now, in January, when you were dealing for yourself, no cash was placed in the account, was there? *A.* No, there is only a little bit of eighty dollars.

Q. That was one check for \$30, one for \$50, that you got on the second? *A.* Yes.

Q. Now we come to February. The trading was quite active, wasn't it? *A.* No, it wasn't active, very active.

Q. Well, on the first of February you sold a thousand shares, didn't you? *A.* The selling was more as the buying.

Q. The selling was more than the buying? *A.* Yes.

Q. The end of February your balance, debit balance, had dropped from \$9641.60 in January to \$1313.03; is that right? *A.* Thirteen hundred thirteen dollars and three cents.

Q. Now I notice on the twenty-sixth of February cash was deposited with Steiner Rouse & Company of \$1350? *A.* Yes.

Q. Where did that come from? *A.* This cash is deposited on twenty-sixth of February and ten days before I took out a check from my account for \$1500. This money I lent to a friend of mine for paying a business, but he couldn't agree, so he was giving back the money and I put it back in the market again.

Q. So the \$1350 which you deposited with Steiner, Rouse & Company on the twenty-sixth of February—am I correct in saying that that represents a portion of the \$1500 check you drew from Steiner Rouse & Company on the sixteenth of February? *A.* Yeah, that is right.

Q. And if you will examine your sheets that you have looked at heretofore, from the last \$4500 deposited by Fisch in July 1933, this item

of \$1350 is the first cash deposited in the account with the exception of a couple of dividend checks since July twenty-fourth, the year before; is that correct? *A.* That is correct.

*Q.* So the account was carrying itself August, September, October, November, December, January and February without the inclusion of a dollar of your money, except the dividends I have referred to? *A.* That is correct.

*Q.* And your balance I think you have testified to. Now we come to March 1934; and you traded, beginning the first, by collecting some dividends, \$50, another one of eighteen cents; correct? *A.* Excuse me; don't go too fast; I can't follow.

*Q.* Take all the time you want. If I am going too fast, just refer to anything you want. *A.* There was on March the first——

*Q.* I said March the first, you collected a couple of dividends, is that correct? *A.* Yes, \$50 and eighteen cents.

*Q.* And you began to buy on the fifth, didn't you? *A.* Yes.

*Q.* You began to sell on the sixth? *A.* Yes.

*Q.* And your balance at the end of the month, the thirty-first of March, the debit balance, was how much? *A.* It was \$12,746.08.

*Q.* So that independent and irrespective of the fact that your balance which you owed Steiner Rouse in February was only \$1300, you bought stocks in March which brought your debit balance to \$12,000; no cash was placed in the account; correct? *A.* That's right.

*Q.* Taking the bottom of the sheet, we find a sale on April the third of 100 General Motors for \$3780.50; correct? *A.* That's correct.

*Q.* Now, is there anything on that sheet, before we pass it, you would like to explain? *A.* Yes, on the two checks I took out; that is for my living, the monthly checks I took out. I say, as I explained, since Mr Fisch left for Germany there wasn't any more profit from the fur account coming in.

*Q.* From the fur account? *A.* Yes. Before, I used always the money coming in for fur account for my living and for expenses; and if you follow the sheet, since he left for Europe, I drawed the living from my stock account.

*Q.* That explains the drawing of the check on April second for \$150? *A.* Yes.

*Q.* Now, we will pass to the April ninth sheet, keeping in mind that your debit balance was \$12,746. You traded during the month of April, buying and selling, correct? *A.* That is correct.

*Q.* And at the end of April your balance had decreased to \$11,144.94; correct? *A.* That is correct.

*Q.* And during the month you did close on to \$30,000 worth of trading, \$27,000 some odd? *A.* Yes, that is right.

*Q.* And no cash placed in the account? *A.* No, I only took out a check of \$50.

Q. Now we come to May; we find that you took a check for \$350, May fourth. *A.* Yes.

Q. And you traded on the tenth, fourteenth and twenty-first, and also on the thirty-first—no, you didn't; those are balances struck—May tenth, fourteenth and twenty-first were your purchases; is that correct? *A.* That is right.

Q. You reduced your balance from \$11,000 to \$9000, didn't you? *A.* That is correct.

Q. And you put no cash into the account? *A.* No, I did not.

Q. And you reduced your balance for the month of June to \$6511.57? *A.* Yes.

Q. The balance of \$6500 as of June 1934 was reduced to \$3800 at the end of July? *A.* That is correct.

Q. And no cash put in to take up the slack? *A.* No cash—took out two checks, one seven-five and one check \$25.

Q. You took out \$175 during July, right? *A.* Yes.

Q. In two checks? *A.* Two.

Q. Now we come to August 1934, and we have you selling off on the first, the sixth, the fourteenth, the fifteenth and the thirty-first. *A.* Yes.

Q. We have your balance reduced from \$3800 to \$2200? *A.* That is right.

Q. And no cash deposited as a setoff. *A.* No, there is only a liquidated dividend from National Bellas Hess—that is liquidated dividend of \$350.

Q. Now we come to August the thirty-first, which is a small sheet, white. *A.* Yes.

Q. Now, looking at that month, the balance of \$2233 at the end of July had been reduced to \$1242.41, hadn't it? *A.* No, that is not a debit, that is a credit balance.

Q. Well then, the old balance, the old debit, had been wiped out; you were out of the red and you were in the black for \$1242.41; is that right—you were to the good? *A.* Yes.

Q. Now, let me ask you this question: From the day that Fisch put the \$4500 in, in July 1933, until September 14, 1934, when this account was totaled and closed, as a matter of bookkeeping, so far as we are concerned on the sheet, isn't it a fact that the only cash that you put into this account was small dividend checks and a cross item of \$1350 of the \$1500 check that you drew? *A.* That's correct.

Q. Now, on March 13, 1933, you deposited \$1250? *A.* March 15, 1933, \$1250. That's the money when President Roosevelt called in all the gold certificates and the gold coin. I put in \$750 in gold certificates and \$500 in gold coin.

Q. And the gold certificates were not Lindy gold notes, were they? *A.* Them gold certificates—that's the rest from the money, from

the \$4300. I didn't put them gold certificates in the bank before or not in the stock market either. My intention was to keep them gold certificates and them gold coin.

*Q.* Why? *A.* I thought I would play safe on account of inflation, but according to President Roosevelt's declaration, I put it in the bank.

*Q.* And when you put the \$750 in gold notes in, you made out a deposit slip? *A.* I did.

*Q.* And you handed it in the window? *A.* I did.

*Q.* In a bank that you had been trading with for years and years, is that correct? *A.* Trading for eight years.

The witness testified that he changed the joint bank account to an account in the name of Anna Schoeffler because he had had an automobile accident, and he was afraid of being sued. He settled the claim, he said, for \$350. The change was recorded in March 1933.

*Q.* I am calling your attention now to the young lady, Miss Alexander, who says sometime in March 1932 she was standing in a railroad station, in the upper part of the Bronx—I think she described it as the Pelham New York Central railroad station—that Doctor Condon was in front of you, he was very much excited, he was talking to a telegrapher, and you were standing at one side of the room looking at him. Were you ever in that station? *A.* I never was in this railroad station. I just happened—I know the railroad station, but I never was in there, had nothing to do in any railroad station.

*Q.* I want you to explain, please, to the jury, about whether or not you had any money in this tin can? *A.* That is about \$12,000 in gold certificates in that can.

*Q.* Gold certificates? *A.* In gold certificates.

*Q.* When? *A.* It is about one week or two weeks before I got arrested.

*Q.* And did you have some money in this board that was offered in evidence? *A.* I did.

*Q.* Rolled up? *A.* I did.

*Q.* How much did you have there? *A.* I can't remember how much it was.

*Q.* You said if you had a big book here you could figure your stock transactions better; is that right? *A.* The accounts only on our settlement on the first of November 1933.

*Q.* Where is that big book? *A.* I guess it is in the possession of the police.

*Q.* Did you see them take it away? *A.* No, I did not, but I suppose so.

*Q.* Now, when you were taken to the New York City police station, were you beaten by the police?

*MR WILENTZ:* I object to it.

*A.* I was.

MR WILENTZ: Just a minute, now. I object to it as not being material to this cause.

MR REILLY: I will connect it. I will connect it.

MR WILENTZ: Well now, just wait a minute. There is no confession or any statement in this case, if your honor please, and the State of New Jersey does not want to be impeded or handicapped by any matters that do not concern this State. If we were presenting some document or confession that was obtained, or it was claimed was obtained, in New York as the result of something that is now inferred, why, I take it that there might be some basis; but the only purpose of this question is one that is not material to this cause.

MR REILLY: I can connect it.

MR WILENTZ: And it cannot be connected with any instrument that is in evidence by the State of New Jersey.

MR REILLY: Oh yes, it can.

MR WILENTZ: Your honor, so far as I can recall, the only things that came in were admitted handwritings, and your honor gave defense the opportunity then to present such testimony as they saw fit, or such testimony as they could, to indicate that those statements were not given voluntarily. If there was some duress or some alleged force or something like that, that was the time; and I take it that there is no effort made now, as far as those statements are concerned, to indicate that this was done.

THE COURT: Well, I do not know what the purpose is now, except as indicated by the question. You will recall that when certain documents were being introduced by the police for the State, the inquiry was made by the State whether or not those papers were executed voluntarily. Now if it be competent for the State to show that they were executed voluntarily, I would think, by the same token, it would be competent for the defendant to say what he had to say with respect to their voluntary character.

MR WILENTZ: Up to that time, with reference to those statements.

THE COURT: Yes.

MR WILENTZ: I have no objection to that, if your honor please.

THE COURT: All right. Now you may proceed.

MR WILENTZ: If it is limited to that extent, up to the date of the taking of those papers, or any other things that we did.

MR REILLY:

Q. Well, what date were you arrested? *A.* September 19, 1934.

Q. And in time you landed in the Greenwich station house, didn't you? *A.* Yes.

Q. How long were you there before anybody asked you to write anything? *A.* My recollection—my best recollection is that it was nighttime.

Q. What time were you brought in, in the daytime? *A.* Yes.

Q. Now, during the period between the time you were brought in and the

time you were asked to write and give certain exhibitions of your handwriting and samples, were you beaten in that station house?

*A.* Not in this time.

*Q.* Well now, when were you beaten?

MR WILENTZ: I object to that, if your honor please.

MR REILLY: We have in evidence here a certain transcript of a statement he is supposed to have made to an assistant district attorney in the Bronx. Read by some stenographer.

MR WILENTZ: If the question is as to any beating made in the Bronx at that time, I will withdraw that objection.

MR REILLY: He might have been beaten downtown and taken to the Bronx.

MR WILENTZ: I am talking about statements made in the Bronx.

MR REILLY: Beatings, not statements.

MR WILENTZ: If statements were made in the Bronx and they were the result of beatings in the Bronx, or the result of beatings downtown, preceding the statement, I will withdraw the objection.

MR REILLY: Let's find out when he got the beating. [*Laughter.*]

MR WILENTZ: No, I object to that question, if he had any.

THE COURT: It is the business of the officers to take those folks that are interrupting this trial out of the room. Where are the officers? I want the officers to be diligent. If I were down there on the floor I could identify these people that are making this confusion and are laughing at times when I don't think there is any occasion for laughing at all. I want the officers to take those people out of the courtroom and, in flagrant cases, I want them brought up here in front of the desk and I am going to deal with them and I may mark them up quite considerable, before I get through with them. I won't have this ribald stuff in this courtroom.

Now, Mr Reilly, suppose that you limit your present examination to finding out at what point of time it is that you think your man was under duress.

MR REILLY: That is what I asked him: at what time you were beaten, if you were beaten.

THE COURT: Yes. Well now, let him tell.

MR REILLY:

*Q.* Were you beaten—yes or no? *A.* Yes sir.

*Q.* When did it start? *A.* The second night when I got arrested.

*Q.* Where were you? *A.* New York police station.

*Q.* After that were you taken to the Bronx? *A.* After that I was taken to the Bronx.

*Q.* You were arrested—I will go back now. I tried to take a short cut but apparently it won't do. You were arrested on the street, weren't you? *A.* I was.

*Q.* And you were held for some hours in your car; is that right? *A.* Yes.

Q. Then they put handcuffs on your hands, didn't they? *A.* Right away.

Q. Then you were searched, were you? *A.* Yes.

Q. And in your wallet what did they find? *A.* Twenty-dollar bill.

Q. Then where did they take you? *A.* Took me Gun Hill Road and White Plains Avenue.

Q. Then did they take you to your house? *A.* Yes.

Q. Then did they search the house? *A.* Yes.

Q. Then were you told it was Lindbergh money? *A.* It was told me in the house. That is the first time I hear it, I got Lindbergh money in my possession.

Q. Never knew it before? *A.* Never know it.

Q. Then where did they take you from your house? *A.* To the Central Savings Bank.

Q. They searched your safe-deposit box, didn't they? *A.* Yes.

Q. No money was there? *A.* No money.

Q. Then where was the next place they took you? *A.* The next place was, it was a police station, Greenwich Street.

Q. That was that first night, the first night? *A.* It was the first night.

Q. You hadn't been to the Bronx yet? *A.* No sir.

Q. Now, in the station the first night what did they do to you, if anything? *A.* The first night they required the request writing.

Q. Yes. Now, in writing, did you spell the words of your own free will or did they tell you how to spell the words? *A.* Some of them words they spell it to me.

Q. How do you spell "not"? *A.* N-o-t.

Q. Did they ask you to spell it n-o-t-e? *A.* I remember very well they put a *e* on it.

Q. How do you spell "signature"? *A.* S-i-g-n-u-t-u-r-e.<sup>4</sup>

Q. Did they tell you to spell it s-i-n-g— *A.* They did.

Q. —n-a-t-u-r-e? *A.* They did.

Q. So when they were dictating the spelling, that was not your own free will in spelling, was it? *A.* It was not.

MR WILENTZ: That is Mr Reilly's witness and his testimony, and I object to it.

THE COURT: Well, Mr Reilly, that is rather leading. You see, this man is your witness. I will request you to refrain from leading.

MR REILLY:

Q. Well, when you wrote s-i-n-g, "signature", it was not the way you usually spelled it, or ever spelled it; is that correct?

MR WILENTZ: I object to the question as being leading, and offensively leading.

THE COURT: You may ask him whether or not the writing that he did was his voluntary act.

<sup>4</sup>The word "singnature" does not appear in any request writings!

MR REILLY:

Q. As far as the spelling of these words that I have indicated, and other words that are misspelled in these request writings of yours, was that your voluntary spelling or your voluntary act, or was it the act and spelling dictated to you by policemen and officials who wanted you to write it that way? *A.* It was because of the dictation.

Q. Now, some were written that night, were they? *A.* Yes.

Q. And in that writing they kept on for how many hours? *A.* I can't remember exactly the time of the request writing, but I know real well it was late; it was really late in nighttime, probably after twelve o'clock. I refused to write.

Q. What did they do to you? *A.* They forced me. They said, "You won't get any sleep; you got to write."

Q. Did they do anything to you physically? *A.* Not exactly, but they didn't give me any chance to sleep.

Q. Did you get anything to eat? *A.* I can't remember if I was asked for anything to eat at all or not.

Q. Over what period did the so-called request writings—how long a period was it in all before they finished with you as far as the writings were concerned? *A.* From the hour of my arrest to—I'd say around two o'clock in the morning the next day.

Q. How many times did he request you to write? *A.* I don't recall how many times.

Q. Many times? *A.* Many times. I fell asleep on a chair when they poked me in the ribs and said, "You write."

Q. Who poked you in the ribs? *A.* I can't recall.

Q. What with? *A.* With the hand.

Q. Were you hit with anything before the writing? *A.* No.

Q. Were you hit during the writing, during the different periods that you wrote? *A.* I got a couple knocks in the—in the ribs, when I refused to write.<sup>5</sup>

Q. After the writing, before you went to the Bronx, did you get any knocks of any kind? *A.* Well—that is, I got the treatment. It wasn't home at all.

Q. Well, tell us about it and when it was. *A.* It was in the evening the next day.

Q. What station house? *A.* New York police station—at the Greenwich Street—

Q. I will ask you, Bruno, was the statement in the Bronx that you made —were you mindful and fearful of the treatment that you had received downtown in New York when you made the statement in the Bronx? *A.* To explain this: When Mr District Attorney Foley was asking me how did they treat me, the coppers in the

<sup>5</sup>Hauptmann had said he was "glad" to write, in order to clear himself. His present statement is therefore a complete contradiction.

Bronx, only the treatment in the Bronx jail and in the Bronx courthouse, but that did not cover the treatment in the New York police station. I said the treatment in the Bronx jail and in the courthouse to Mr District Attorney Foley was fair, but it covers only the Bronx; but the treatment in the police station in New York, it was entirely different; it was just the opposite that way. I got the effect from this treatment for two months; that is the reason I lost over thirty pounds.

Q. Well, did you have that in mind when you made the statement in the district attorney's office in the Bronx? A. I only got in my mind the treatment from the police station.

*Cross-examination by MR WILENTZ:*

THE WITNESS: Mr General, may I go back to my financial—on my financial transactions?

MR WILENTZ: Yes.

THE WITNESS: All I said about my financial transaction, that is to be how I remember, because there is no exact bookkeeping to keep Mr Fisch and myself apart; that is the way I remember. And it may be some difference in one way or another way.

MR WILENTZ:

Q. Yes. What you mean is that everything that you have said about your financial transactions, all that testimony—you mean that that is your best recollection; there may be a difference here or a difference there, is that what you mean? A. The difference isn't very big, but that is the best recollection I have.

Q. Yes; all right, we will get to that. Mr Defendant, you came into this country when you came here, illegally, didn't you? A. Yes sir.

Q. The State of New York and the State of New Jersey and the United States of America have been working on your case as you know; you know that, don't you? A. I suppose so.

Q. Yes. You have had an opportunity in this Court today, and you still have an opportunity this minute to tell the whole truth. Have you told the whole truth? A. I told the truth already.

Q. All right. So that you stand now on the story that you have given today? A. I do.

Q. You stand on the story that you gave in the Bronx, in the courthouse? A. To a certain extent.

Q. Well, I am talking about the story that you swore to before a court in the Bronx. Do you stand on that? A. To a certain extent, yes.

Q. You say you told the truth today? A. I told the true to District Attorney Foley about my treatment in the Bronx; that is correct.

Q. About this case, not about the treatment; about the Lindbergh case the murder: did you tell him the truth about that? A. To a certain extent.

Q. Now Mr Reilly asked you about the time that you were convicted in Germany and you told him yes, and that you were paroled? *A.* Yes.

Q. All right. I think the exact question to you was, "During the period of reconstruction in Germany, you were convicted of some offense there; is that correct?" And you said you were, springtime of 1919. You served how many years? *A.* That means four years, isn't it?

Q. About four years. And when you came out as the result of that conviction and as the result of that parole, what did you do to follow a livelihood, as a means of livelihood? *A.* I was trying to sell some goods; later I find out it was stolen.

Q. Now let me refresh your recollection. In the County of Bautzen you were released on June 3, 1919, under parole; you remember that now? *A.* It is—I can't remember the date.

Q. Now, what happened then? You went and you sold some things that were stolen; is that it? *A.* Yes.

Q. And then what happened? Did you go back to jail again? *A.* I got arrested.

Q. And went back to jail again; is that right? *A.* It was like police station, not quite a jail.

Q. How long did you stay there? *A.* I stayed only a couple days.

Q. And what happened? *A.* They was working in the garden or in the yards, and I went out; the door was open and everything.

Q. You escaped jail? *A.* Yes.

Q. Now, you were in jail for four years, and the Parole Board let you out on parole? *A.* Yes.

Q. You understood, then, didn't you, that you were to behave yourself? *A.* Yes.

Q. You were back again in jail on the nineteenth of June? *A.* Yes.

Q. Within ten days anyway, or fourteen days? *A.* [Witness nods.]

Q. So you mean you were only convicted of one crime; is that it? *A.* Yes sir.

Q. Only convicted once? *A.* Convicted once.

Q. Only once? *A.* Only once.

Q. On March 14 and 15, 1919, breaking and entering into a home through a window in Reichowitz on the night of March 14 and 15, 1919—wasn't that one charge you were convicted of? *A.* It was a charge.

Q. Isn't it a fact that you were also convicted of breaking and entering into the mayor's home on March 15 and 16, 1919? *A.* It is about right. I can't remember.

Q. Breaking in through a window—you went through a window, didn't you? *A.* Yes.

Q. Isn't it a fact you were convicted, you and another man were convicted of holding up two women with a gun? *A.* It is.

Q. Wheeling baby carriages? *A.* Everybody wheels baby carriages—

Q. Everybody wheels baby carriages, and you and this man with the gun held up these two women wheeling baby carriages, didn't you?

MR POPE: We object to the question.

MR WILENTZ: He has answered the question.

THE COURT: He has answered the question. He says he was convicted. That is enough of that matter.

MR WILENTZ:

Q. Weren't you convicted afterwards of stealing some things out of a restaurant in Kamenz which you sold for thirty marks? A. That is one I can't remember.

Q. All right. We will pass that over then. In December 1918 or January 1919 weren't you convicted of stealing some clothing from a guest room in Kamenz, and then exchanging that coat with your brother for another one? A. I can't remember that coat.

Q. Weren't you convicted of stealing some driving belts which you then later tried to sell to a policeman? A. I will say what you are reading is something new to me.

Q. Then you weren't, were you? A. No sir.

Q. Now, when you escaped from jail, you at that time had lived in your country; up to that time you had lived there all your life, hadn't you? A. Yes.

Q. When you told Mr Reilly that you were in this country under parole, you knew very well then, didn't you, that Germany wanted you for years, didn't they? A. No sir, because when I entered the United States the first time I did, I was writing my mother a letter I am safe over here, and if the German government have any interest to convict me or have me back they always got my address on hand; they only have to go to my mother.

Q. Yes. All they have got to do to get you is to go to your mother in Germany; that's right? A. It was, it was—

Q. You have been planning to go back to Germany, haven't you, for the last few years? A. I was planning to go back to Germany this year.

Q. Yes. And you were trying to make arrangements through your mother with the police so that you could go back, isn't that so? A. It was what they call over quota,<sup>6</sup> so I could enter Germany without fear, wouldn't be arrested.

Q. Yes, that's right. And you were communicating with your mother so that she would make arrangements with the government of Germany so you wouldn't be arrested when you got there; isn't that right? A. It was not necessary to communicate with my mother in this case. I could go over to Germany as it was cut out automatically.

Q. Well, whether it was your mother or who it was, you were making arrangements to return to Germany, weren't you? A. Yes.

<sup>6</sup>Hauptmann evidently meant that the statute of limitations had expired.

Q. And just about then you were arrested, isn't that right? *A.* Just about—my arrangements covered about this year, some of this year.

Q. Now I want to show you a little book and ask you if it is yours. Is that your handwriting? Take your time about it. Look at it. *A.* Yes, that's my handwriting.

Q. That is your handwriting? *A.* Yes.

Q. Take a look at this word particularly. Tell me if that is your handwriting, that one word there. *A.* [No answer.]

Q. Or did some policeman write it? *A.* I—I can't remember every word I put in there.

Q. Just the one word, that's all. There are only a few words on the whole page. That one word; tell me if that is in your handwriting? *A.* It looks like my handwriting, but I can't remember I ever put it in.

Q. You can't remember what? *A.* No, no.

Q. Don't mix it up now. Just stay with that word there for a minute; two dollars and fifty cents. You see that word? *A.* Yes.

Q. Alongside of it? *A.* Yes.

Q. Are they your figures? *A.* They must be my figures.

Q. Now, let's get to this word that you use. *A.* Yes.

Q. That is your word then, isn't it? *A.* I can't remember if I ever put it in.

Q. Well now, this isn't a joke. You know either it is your handwriting, or it isn't. Is it your handwriting? *A.* It looks like my handwriting.

Q. Now, tell me, how do you spell "boat"? *A.* B-o-a-t.

Q. Yes. Why did you spell it b-o-a-d? *A.* You wouldn't mind to tell me how old this book is?

Q. I don't know how old it is. You know; I don't know. *A.* Let me see it.

Q. Well, why did you spell "boat" b-o-a-d? *A.* This book is probably eight years old.

Q. All right. Why did you spell b-o-a-d? *A.* Well, after you make improvement in your writing.

Q. All right. So that at one time you used to spell "boat" b-o-a-d? *A.* Probably eight or ten years ago, and I am not quite sure if I put it in.<sup>7</sup>

Q. At one time you used to spell "boat" b-o-a-d, didn't you? Isn't that right? *A.* No, I don't think so.

Q. Eight years ago, six years ago, ten years ago, whenever it was, you used to spell "boat" b-o-a-d; isn't that right? *A.* I don't know.

Q. You spelled it in there, didn't you? *A.* I—

Q. You tell the truth now. Didn't you spell it in there? *A.* Now listen. I can't remember I put it in there.

Q. Will you please look at this one word [presenting a small notebook

<sup>7</sup>The word was written by Hauptmann only a few months before the Lindbergh kidnaping.

*to the witness]. We will come to the rest of the book—— A. I looked at it already.*

*Q.* You said yes, and maybe, and yes and maybe. Now, will you tell us what you really mean? *A.* I told you I can't remember putting this one in the book.

*Q.* Is the whole page in your handwriting? *A.* I don't know.

*Q.* Look at it. *A.* No.

*Q.* What isn't in your handwriting? *A.* Some handwriting I can't even make out.

*Q.* But the word "boad" in there, you won't say that it is not in your handwriting, will you? *A.* I wouldn't say yes either.

*Q.* You don't say yes or no? *A.* I don't say yes or no because I can't remember ever putting it in.

*Q.* The reason you don't say yes or no is because you know you wrote "boad" when you got the fifty thousand from Condon; isn't that right? *A.* No sir.

*Q.* Boad Nelly. Look at it. [*Handing the exhibit to witness.*] *A.* No.

*Q.* Do you see the word "boad Nelly"? *A.* I see it, certainly.

*Q.* Look at it again right underneath there, again, "boad". Do you see that? *A.* I see it.

*Q.* B-o-a-d? *A.* I see it.

*Q.* You come from Saxony in Germany, don't you? *A.* Yes.

*Q.* In Saxony they use the *d* instead of the *t*, don't they? All the words are "boad" instead of "boat" and things like that; isn't that a fact? *A.* Some of them, yes.

*Q.* Yes. *A.* That is a fact.

*Q.* And you use the word, you spelled the word "boat" b-o-a-d, because that is the way they would spell it in Saxony, isn't that it? *A.* Oh no——

*Q.* That isn't? *A.* They spell it maybe mit *d* but they write it in *t*.

*Q.* So you are a carpenter? *A.* I am.

*Q.* But you didn't do any work regularly as a carpenter since April 1932, did you? *A.* That is correct.

*Q.* You have been a stock-market trader, haven't you? That has been your business? *A.* Trading in stock market, trading in furs, and through some mortgages coming in.

*Q.* Well, you were a partner in the fur business, but you didn't buy and sell furs? *A.* No.

*Q.* But your business really was trading in the stock market? *A.* Yes.

*Q.* That is what you really did? *A.* Yes.

*Q.* That is where you spent your days, isn't that a fact? *A.* Yes.

*Q.* And every dollar of money that went into those brokerage accounts that you have talked about today, every dollar that went in there you took yourself and gave to the brokers, didn't you? You delivered it to the brokers, didn't you? *A.* Yes, I delivered to the broker.

Q. Every dollar that you said that Fisch gave you or anybody else gave you, so far as delivering it to the broker, you are the one that gave it to him, aren't you? *A.* Yes sir.

Q. And the only man that knows about any moneys between you and Fisch, so far as the stocks are concerned, is that man that is dead, Fisch; isn't that right? *A.* I don't know; I guess; he said to me he is keeping book.

Q. He is the only man, though? *A.* As far as I know.

Q. Just between the two of you? *A.* As far as I know, yes.

Q. Yes. And he is dead? *A.* Unfortunate.

Q. He was your best friend, wasn't he? *A.* Well, I don't say best friend, but—

Q. You don't say so? *A.* He was very good friend.

Q. Did he help you kidnap this Lindbergh child and murder it? *A.* I never saw—

Q. You never saw? *A.* —Mr Lindbergh's child.

Q. But Fisch didn't help you, did he?

MR FISHER: Objected to, your honor. He has a right to finish his answer.

MR WILENTZ: Yes, I suppose he has. I thought he had finished it.

MR FISHER: You knew he hadn't.

THE COURT: Mr Fisher, you need not shout in that fashion. Make your objections in a quiet and orderly fashion and we will deal with them in a quiet and orderly fashion. Now then, what is the question?

MR WILENTZ: The objection was that I hadn't permitted the witness to finish his answer.

MR FISHER: That is right.

MR WILENTZ: He said he never saw the Lindbergh child, I think.

MR WILENTZ:

Q. You have seen this board before, haven't you [*showing the witness*]? *A.* I saw it.

Q. Did you take a look at the symbols on the ransom notes, the round circles? Did you see that when it was up here? *A.* I saw it.

Q. Circles like these that you put the money in, weren't they? *A.* Well, when you drill a hole, it has got to be round.

Q. Yes, I know that. But you don't need a round hole to put money in, do you? *A.* Well, it wasn't prepared for money.

Q. Didn't you tell District Attorney Foley that you drilled five holes to hide money in? *A.* I told him I drilled five holes in for to put small bits in; and later I used it for money.

Q. Didn't you tell District Attorney Foley in the Bronx and the other officers, when they presented you with this exhibit, 197, that you drilled those holes to put money in it, this money? *A.* I drilled holes in for bits.

Q. What I want to know is whether you told District Attorney Foley that you drilled it for money? *A.* That can be impossible to say.  
Q. Can be impossible? *A.* Is impossible.  
Q. What did you have this other hole for?

MR REILLY: I object to that.

MR WILENTZ: He says he drilled these five holes and I am asking what he drilled the other hole for. It is a part of this very transaction, if your honor please. This isn't our board.

THE COURT: I will admit that question.

MR WILENTZ:

Q. What did you drill the other hole for? *A.* To put something in.  
Q. What did you put in? *A.* It wasn't money.  
Q. Answer the question. *A.* I put something in there.  
Q. Answer the question? *A.* I put a small pistol in it.  
Q. Small pistol? *A.* Yes.  
Q. So that you had the pistol hidden in here? *A.* Yes.  
Q. And you had the five rolls of bills there? *A.* Yes.  
Q. And when you fixed this board up you fixed this pistol part with different depths, didn't you, so that the handle would go way in and so that the other part would be flush along here, didn't you? Isn't that the truth? *A.* Will you repeat it again, please?  
Q. When you built the larger hole, the one for the pistol, you built it specifically for the pistol; that is, you made the depths in the various parts of the wood different so that the pistol would fit in; isn't that so? *A.* You will have to repeat it again.  
[*The question was not repeated at this time.*]  
Q. Let me ask you this: You gave your name when you were sworn in as a witness as Bruno Richard Hauptmann. That is true, isn't it? *A.* Bruno Richard Hauptmann.  
Q. Is that the only name you use? *A.* It is the only name I use.  
Q. Haven't you used other names? *A.* I used another name on the boat when I came over first.  
Q. What was the name you used on the boat? *A.* I guess it was Perl-meyer.  
Q. What was the first name—John? *A.* Well, I really don't know the first name.  
Q. Was it John? *A.* I can't remember.  
Q. You can't remember? *A.* No, I really can't remember.  
Q. Didn't you use another name later on? *A.* No sir.  
Q. When you bought the field glasses did you use a different name? *A.* No sir.  
Q. You are sure about that? *A.* Positively.  
Q. Are you the Cemetery John that was up in Woodlawn Cemetery? *A.* Positively not.  
Q. Are you the Cemetery John that was in the other cemetery? *A.* No, I never was in the cemetery.

## NINETEENTH DAY

*Flemington, N. J., January 28, 1935.*

BRUNO RICHARD HAUPTMANN [*resumed the stand*]

*Cross-examination by MR WILENTZ [continued]:*

Q. Mr Defendant, have you ever been up in an airplane? *A.* Yes, one time.

Q. Where? *A.* Los Angeles.

Q. Was that on the trip that you took to California? *A.* That is right.

Q. Tell me something about that trip; you left in July 1931, did you not? *A.* Yes.

Q. And you went by automobile? *A.* Yes.

Q. It was a pleasure trip, was it? *A.* Yes.

Q. Who went with you, Kloeppenburg and your wife? *A.* My wife and Kloeppenburg.

Q. How many times did you go up in the airplane? *A.* One time.

Q. Did you cross on any boats? *A.* No, we wasn't over the water at all.

Q. Did you hire a motorboat anywhere? *A.* No. I can't remember.

Q. Well now, just think a minute. Were you on a boat anywhere at all on that trip? Take your time and think it over. *A.* I can't remember.

Q. Do you remember paying seventy-five cents apiece for a ride on a boat, for yourself seventy-five cents, for Mrs Hauptmann seventy-five cents and for Mr Kloeppenburg? *A.* [No answer.]

Q. Altogether \$2.25? *A.* No, can't remember.

Q. You can't remember? *A.* No.

Q. You can't remember. You kept an account of your expenditures and expenses on this trip to California, did you not? *A.* Yes, we did.

Q. Every cent that you spent, you accounted for in a book, isn't that so, groceries and everything? *A.* Yes.

Q. And from the very day that you started to earn any money in this country you kept books of accounts, didn't you? *A.* Not the first day. I was here about—I guess I started a year or two years after.

Q. Once you started to keep an account, you kept every item listed in your books, in your accounts, didn't you? *A.* No, not every item.

Q. Well, you kept the money that your wife earned and you kept an account of the money that you earned, did you not? *A.* Yes.

Q. You kept accounts of the moneys that you loaned to people and you kept an account of the moneys that you spent? *A.* Yes.

Q. You kept an account every year of how much money you and your wife were worth, did you not? *A.* Yes.

Q. At the end of the year, if you had stocks and if you had moneys and if you had other things of value, if people owed you money, you kept an account of it? *A.* Yes.

Q. Did you not? You have always been very careful about figures, have you not? *A.* Well, I say so, yes.

Q. Yes. You have always been very careful about money, too, haven't you? *A.* Yes.

Q. I mean, you have tried to save money? *A.* Of course.

Q. But in 1931, as the result of the gambling in the stock market, you lost some money, didn't you? *A.* I lost money in 1930.

Q. Nineteen-thirty? *A.* Yes.

Q. So that, getting back to the books again and the books of account again, you say you kept your accounts. I suppose when you put the figures in the books that you put the correct figures in, didn't you? *A.* Well, I saved every week, about ten dollars.

Q. No. Never mind; we will get to that. *A.* I did not put—

Q. No. Just one minute now. You just answer the question. You see, you know what I am going to ask you, but I will come to that later. What I asked you was, did you, when you put the figures in the book, did you put correct figures in? Were they truthful figures; were they honest figures when you put it in the book, in your books? *A.* You mean—

Q. When you wrote in the book, the books that you kept—we were just talking about the books that you had; you said you kept an account of your expenses and your income. The figures that you put and wrote in those books, were they honest figures, were they correct figures, were they true figures? *A.* I said he was, them figures were true, but I will—left out some of it.

Q. Well then, you mean they weren't true? *A.* That doesn't mean the figure weren't true.

Q. Let me ask you. Supposing you put \$5000 in stocks, would that be correct if you put it in the book? Would it be correct? *A.* It would be correct.

Q. If you said \$500 in the bank, would it be correct, if you had that in the book in your own handwriting? *A.* Yes.

Q. If you said John Jones owed you \$150, would that be correct? *A.* Yes.

Q. If you put in the book that you had \$100 home, would that be correct? *A.* Yes.

Q. So that the figures in the book—whatever the figures are in those books, they are correct, honest and true; isn't that right? *A.* Yes.

Q. That when you wrote into your own books in your own hand, you

didn't try to fool anybody but you were putting the truth in there?

*A.* Yes.

*Q.* All right. *A.* But there is only one thing I did not put—

*Q.* No "buts." Is it the truth—

**MR FISHER:** I submit, your honor, he is entitled to answer that. He has tried three times to explain that situation and the attorney general stops him each time. He is entitled to make a full answer and explanation, sir.

**MR WILENTZ:** The truth doesn't need any explanation.

**MR FISHER:** He says "I put it in the book but—"

**THE COURT:** Well, I think he had better be permitted to make his explanations now, if he has any.

**MR WILENTZ:**

*Q.* All right, but what? *A.* I saved money besides that my wife should not know. I put nothing in the book.

*Q.* Oh. In other words, you were hiding it on your wife? *A.* [Witness nods.]

*Q.* Well, you were hiding a lot of things on your wife, weren't you? *A.* No sir. It is only the money I kept.

**MR FISHER:** I object to this.

**THE COURT:** Why do you object?

**MR FISHER:** Because it is improper cross-examination. "You are hiding a lot of things from your wife."

**THE COURT:** Well, you insisted upon his making that explanation. He made it and now I think the attorney general has a right to cross-examine further about it.

**MR WILENTZ:**

*Q.* You were hiding a lot of things on your wife, weren't you? *A.* Only the money question.

*Q.* When is the first time you met Mrs Henkel? *A.* Summertime, '32.

*Q.* Where? *A.* Hunters Island.

*Q.* Was Mr Henkel there when you met her? *A.* [No answer.]

*Q.* What are you thinking about? You know whether he was or not. *A.* I guess her sister was there.

*Q.* I am asking you about Mr Henkel, not her sister. *A.* I can't remember if he was there.

*Q.* Who introduced you to Mrs Henkel—nobody? *A.* Well, it doesn't need much introducing out there.

*Q.* That was when your wife was away, wasn't it? She was in Europe then? *A.* Yes, that is right.

*Q.* Now we will get back to the accounts again. So the books were absolutely accurate except where you tried to keep it away from your wife? *A.* Yes.

*Q.* You did say before that when you put \$5000 in stocks, that was right, you didn't try to keep that away? *A.* I didn't put \$5000 in stocks.

Q. Whatever the correct amount was in the books, you had it in there, and you didn't try to fool her about that? *A.* No, I did not.

Q. Let me ask you, when you found \$14,000 or more in gold, how did you feel? Did you cry? Did you laugh? Were you happy or were you sad? *A.* I was excited.

Q. You were excited? *A.* I was.

Q. Did you say anything, did you holler out, "Anna, look what I found!" or anything like that? *A.* No, I did not.

Q. Did you tell your wife? *A.* I did not.

Q. You didn't tell your wife? *A.* No.

Q. Have you ever seen \$14,000 in gold before in your life? *A.* No, I did not.

Q. Well, when you say you were excited, what do you mean, you were excited? *A.* Well I guess everybody is excited if he finds \$14,000.

Q. Yes. *A.* Like dat.

Q. Well, you are not very excited now, are you? *A.* Why should I?

Q. Were you honest with your wife when you found this money? *A.* I guess I was honest.

Q. Didn't she work and slave in a bakery and bring to you, when you and she got married, her earnings and her savings? *A.* That has got nothing to do with them \$14,000 at all.

Q. Didn't she do that? Please answer. *A.* Yes.

Q. Didn't she buy the furniture for you and herself when you started your home? *A.* This was my wife's money and my money.

Q. For the furniture, didn't she pay every dollar for the furniture? *A.* That comes from our bank account.

Q. Comes from your bank account. She gave you every dollar she had in the world, didn't she? *A.* So did I.

Q. Yes. *A.* Except these \$14,000.

Q. You were partners, weren't you, both working hard? *A.* Yes.

Q. But when you found \$14,000 in gold, no more partnership with the wife? *A.* Absolutely not. Why should I make my wife excited about it?

Q. Oh, I see. When you were keeping your books and you were cheating her with the books of accounts, and you wouldn't tell her about your moneys, why did you stop her from knowing about that? Why did you hide that? *A.* Should it be a pleasant surprise for her sometimes.

Q. I see. You were keeping a surprise for her? *A.* Yes, because my attention was to pay her house, build her a house sometime.

Q. Do you know Mr Brent, stock-exchange business? You met Mr Brent in your stock-exchange operations, didn't you? *A.* Brent?

Q. Brent, yes. Isn't he the man that introduced you to the stockbroker or something like that? *A.* What is his first name?

Q. I don't know. I will try to find out. What is Mr Brent's first name [addressing associate counsel]? Well, you remember Brent's wife

—she is the lady that introduced you to the brokerage firm, I think, Steiner Rouse, to E. A. Pierce & Company, I think; one of your accounts. Do you remember the lady that introduced you to the stockbroker? *A.* Oh yes, that is right.

*Q.* That is her husband? *A.* That is right.

*Q.* Do you know him? *A.* Yes, always—

*Q.* Do you remember saying to Mr Brent, "Mr Brent, if my wife ever asks you where I was some night, tell her I was with you"? *A.* No.

*Q.* You didn't do that? *A.* No.

*Q.* You only kept the money business away from her; is that it? *A.* [No answer.]

*Q.* Well, anyway, getting back to your accounts again, you were telling us the other day, when I showed you a little book with some words in it, that "Well, the book is maybe eight years old", and maybe you have learned since that time; something like that. Do you remember that? *A.* Yes.

*Q.* Tell me, when you came to Flemington, New Jersey, and you got into the jail here, you knew something about ransom notes being written to Colonel Lindbergh; you knew that was one of the things in the case, didn't you? *A.* It is only what I hear in the Bronx, Bronx courtroom.

*Q.* Yes. Did you send out for a German-American dictionary while you were here? *A.* Yes.

*Q.* To study up the correct spelling of the words? *A.* No sir.

*Q.* Is this the dictionary that you sent for, and is it your dictionary [showing to witness]? *A.* I guess that is the dictionary I got over here.

MR WILENTZ: I offer it.

*Q.* Is that where you learned to spell the word "signature" correctly? *A.* No sir.

MR POPE: We object to the introduction of the book. It is merely a book which the defendant had sent in to him after he was incarcerated. It certainly can have no effect upon this case. Perhaps he had a reason for sending for it; but it is in no way connected with the case; it is entirely too remote.

THE COURT: Well, I am inclined to think, in view of the state of the proof, that it is evidential.

[*The dictionary was received in evidence and marked State's Exhibit S-255.*]

THE WITNESS: Do you want me to explain this dictionary book?

THE COURT: The lawyers will examine you. Your counsel after a while will enable you to make any explanations you have to make.

THE WITNESS: Thank you, your honor.

MR WILENTZ:

*Q.* Mr Defendant, I want to show you this word "sing" and "signature" on this Exhibit No. S-109. You see it, do you not? *A.* I see it.

Q. You remember the testimony of the handwriting experts about the *n* being before the *g*; you remember that? *A.* I can—oh yes, I do.

Q. That is a habit of yours, isn't it, putting in *n's* where they don't belong? *A.* No.

Q. You do it often, don't you? *A.* I can't remember. I don't remember doing it at all.

Q. Would you be surprised to find out that you had done it? Well, take a look at this just for a minute, and see if this is yours [*handing the witness a paper*]. Is that your check? You ought to be able to tell whether it is your check by this time? *A.* Yes, that is my check.

Q. It is. Let me see it a minute. Have you had a good look at it? *A.* No.

Q. Then keep looking at it. Is that your check? *A.* Yes.  
[*The check was marked S-256 for identification.*]

Q. How much is the amount of that check? *A.* Seventy-four dollars.

Q. Seventy-four dollars? *A.* Yes.

Q. How do you spell "seventy"? *A.* "Seventy"? I guess—

Q. Well, read it from here. You wrote it: seventy. Read it. Nice and loud, please. *A.* That is—

Q. Loud, now. *A.* S-e—

Q. Loud, now. S-e—what? *A.* S-e-n—

Q. S-e-n? *A.* Yes.

Q. Senvety? *A.* Senvety, yes.

Q. You have an *n* in there, haven't you? *A.* Yes.

Q. All right. Now let me have it please. The same *n* as you have in "singnature". Isn't that right?

MR POPE: Object to the question. That is not true. I object to that question. How he spells "singnature" and how he spells "seventy" are two entirely different things. Whether the *n* is before or in the wrong place or not, the check itself will show.

THE COURT: Oh, I think it is legitimate cross-examination.

MR WILENTZ:

Q. Didn't you place the *n* in "senventy" just like you placed the *n* in "singnature" and for the same reason?

MR POPE: Now, I object to the question because the witness has testified that he did not place the *n* in "singnature", that he did not write the word "singnature", that he did not write the ransom note. If he wants to ask him if he placed the *n* in "seventy" where it appears on that check, we think that is a perfectly proper question, but "Didn't you place the *n* in 'seventy' the same as you did in 'singnature'?" is either a catch question\* or one which is manifestly improper.

THE COURT: The objection is overruled. You may have your exception.

MR WILENTZ:

Q. Answer the question, sir. A. What is the question?

Q. [Question read as follows: "Q. Didn't you place the n in 'senventy' just like you placed the n in 'singnature' and for the same reason?"] A. No.

Q. All right. Now take a look at this exhibit. You see that N in "New York"? A. Yes.

Q. And that N in your handwriting? A. Yes.

Q. Did the police tell you to put that little hook up on top, or did you do it yourself? A. I do it myself; but I say that is a lot difference between them two N's.

Q. There is a lot of difference between that hook up there? A. Hook up there like that.

Q. There is a lot of difference between the two? A. I guess there is a whole lot.

Q. Do you see the "York"? A. Yes.

Q. That York [indicating]. A. [No answer.]

Q. Do you see that "York" in the ransom notes and papers [indicating]? A. I see it.

Q. Now, take a look at this book and see if this is yours, right there, that page. Don't turn the page; just look at that page. A. No, no, I won't turn it.

Q. All right. A. [After examining page.] Yes, I wrote that.

Q. All of it. Now take this pencil and put a line under the "New York", the first "New York" you have got there; just underneath it. A. [The witness complied.]

Q. Then take it again and put it under the next "New York." A. [The witness complied.]

Q. Then under the next one. A. [The witness complied.]

Q. And under the next one. Right here. A. [The witness complied.]

Q. Now, those lines are your lines, aren't they, under "New York"? A. Yes.

[Page of memorandum book received in evidence and marked State's Exhibit S-257.]

MR WILENTZ: Now just leave that "New York" there for a minute. May I ask the Court's indulgence for a minute, until I exhibit these "New Yorks" to the jury?

I ask the jury to look at this "New York" on the sleeping garment [indicating the chart] and every one of those four "New Yorks" in that book.

MR POPE: We object to the attorney general standing up there and testifying to the jury.

MR WILENTZ: Let's read it and see how much testimony there is.

[The reporter read as follows: "Mr Wilentz: I ask the jury to look at this 'New York' on the sleeping garment (indicating the chart), and every one of those four 'New Yorks' in that book".]

THE COURT: What is wrong about that?

MR POPE: We think this is not the proper time for argument. It might be perfectly proper for the attorney general to take the charts that are in evidence and exhibit the book to the jury at the time of the argument, but not during the examination of the witness.

THE COURT: Well, I have always supposed that when a book is admitted in evidence it is proper for counsel to call the attention of the jury to the fact that they would like for them to read the book.

MR WILENTZ:

Q. Were you in court when—well, you were in court, weren't you, when the handwriting experts were testifying about the peculiarities in the ransom notes? *A.* Yes.

Q. Do you remember their testimony about the *g*'s and the *h*'s being transposed in "right" and "light" and things like that? *A.* Gee, there were so many talking, I really can't remember.

Q. I want to point out to you another thing, *r-i-g-t-h* and *n-i-h-g-t*, do you see those? *A.* Yes.

Q. This is your standard writing? *A.* Yes.

Q. And this is your disputed writing? *A.* Yes.

Q. And the other one I just indicated to you, you see those, don't you? *A.* I see 'em.

Q. One in your standard writing and two in your disputed writings. Now, you had a habit of doing that, didn't you? *A.* A habit.

Q. Yes, a habit of making mistakes with "night" and "right" and "tight" and anything that had *gh* and *hg* in it? *A.* Well, I say maybe I made mistakes, I was not so—

Q. That was one peculiarity. You didn't make any mistakes with "signature"; you could spell that, couldn't you? *A.* You see I am not so very perfect in writing English.

Q. Yes, but you could spell "signature" without the *n*, couldn't you? *A.* Sure I can.

Q. But little words like "right" and "night" and "tight", you didn't have any trouble with those, did you? *A.* That is what I say; I write really very, very seldom.

Q. Well, this page that you said is in your handwriting—you bought some Curtiss-Wright Aviation stock. *A.* Yes.

Q. Spell "Wright", as you have got it in here, so that the jury will know just how you wrote it. *A.* That is *h-g-t*.

Q. Never mind the *h-g-t*, start at the *W*. *A.* *W-r-i-h-g-t*.

Q. *W-r-i-h-g-t*? *A.* Yes.

Q. Just like you have the *h-g-t* here in "light", isn't that right? *A.* That is right.

Q. In 1932, and particularly in March 1932, you had a German-American dictionary in your home, didn't you? *A.* Had it home for long years.

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Q. Did you tell me you started keeping accounts—in what year? *A.* What kind of account you mean?

Q. Your accounts of your financial transactions? *A.* I guess it is dating back about 1925. I am not quite sure. I can't remember.

Q. But the account of the trip to California was in 1931, isn't that right? *A.* Yes. This account I keep book of it, because Mr Kloeppenburg went along, and the expenses was split. That is the reason—

Q. And you told us the other day that—well, the "boad" may have been written in there eight years ago or six years ago or some other time? *A.* I really didn't read the book. I only got my eye on the word "boad."

Q. Take a look at S-252 for identification, that is, that page. Are those the expenses on your trip, part of the expenses on your trip to California? *A.* Well then, I have to see the whole book, in the front.

Q. We will see in a minute now. Do you see that \$12 for airplane? *A.* Yes, I see.

Q. Was that for the California trip? *A.* Let me see. Let me read the whole page.

Q. Yes, look at the whole page. *A.* That is the trip to California.

Q. Do you see \$65.73 carried over from the other page? *A.* Yes.

Q. Well then, look at that page, where the \$65.73 is; is that the trip to California, the expenses? *A.* Yes.

Q. Now, you see there is \$46.28 carried over from the preceding page. *A.* Yes.

Q. Now, is this the preceding page, \$46.28? *A.* Yes.

Q. That is the page with the "boad" on it? *A.* Yes, just let me see the book.

Q. Yes. I just want you to look at the pages; that is only one page actually. *A.* Can I turn one leaf over?

Q. Yes. You can turn one leaf over. That is the continuation of the trip, that is the beginning of the trip, isn't it? *A.* Yah, that is beginning of the trip.

Q. It must have been later than July 5, 1931; isn't that right? *A.* That is right.

Q. So that this book, this page particularly, January, marked S-252 for identification, that page was written after July 5, 1931; isn't that right? *A.* That is right.

Q. So it wasn't six years ago, was it? *A.* No, yesterday I didn't—only looked on the word "boad", nothing else.

Q. That is right. And as soon as you saw "boad" you thought it was six or eight years ago? *A.* Yes, I did.

Q. When is the first time that you heard about Colonel Lindbergh, that you knew there was such a person living as Colonel Lindbergh? *A.* Well, right after his flight to France.

Q. You remember that, don't you? How do you say "Colonel Lindbergh"? Will you pronounce it for me, please? *A.* Linborg.

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Q. Yes. Say it "Mr Colonel Lindbergh." *A.* Mr Colonel Linborg.

Q. Yes. A little louder. *A.* Mr Colonel Lindenborg.

Q. Lindenborg? *A.* Linborg.

Q. You have another *n* in there, haven't you? *A.* No, Linborg.

Q. Lindbergh. Not Lindenbergh? *A.* No.

Q. Will you just take a look at that letter and keep studying it until we are ready? *A.* [Witness examines letter carefully.]

Q. Is that letter which I hand you your letter, written by you, the ink part? There are some pencil notations at the bottom, but the part in ink, is that yours? *A.* That is mine.

Q. You wrote it? *A.* Yes.

Q. Read it. *A.* "Please, will you carry on my debit——"

Q. All over again, please. *A.* "Dear Sir: Please, will you carry on my debit, \$74.89 until May 25th. By this time I will settle my debit balance from \$74.89. Very truly yours, Richard Hauptmann."

Q. What date was that that you sent that? *A.* May 21, 1931.

Q. May 21, 1931, you wrote to your broker, did you? *A.* Yes.

Q. You wrote that letter to your broker, did you not? *A.* Yes.

Q. After he told you that he needed seventy-four dollars and some cents for margin, to take care of your account, is that right? *A.* I suppose it was right.

Q. You wrote him back to wait for the \$74.28 for about four days until the twenty-fifth, whatever it is? *A.* Yes.

Q. Now, you kept accounts of all of your transactions in July 1930, did you not? *A.* I can't remember the day when I stopped.

Q. Why did you stop? *A.* I can't give any reason for it, why I stopped.

Q. Well, you stopped when you came back from California, didn't you? *A.* No, I guess there wasn't any account in '30 or '31 either.

Q. And then you began again in 1932, didn't you? *A.* Only on brokerage accounts.

Q. Only on brokerage accounts? *A.* Yes.

Q. Fur accounts; how about those? *A.* No, did not.

Q. You didn't keep fur accounts in your book? *A.* I keep the little bit of it.

Q. Didn't you keep fur accounts in your books? *A.* I keep a little bit of fur accounts.

Q. Then, why did you say you didn't keep fur accounts? *A.* Well, this doesn't include all the furs, only a little bit of it.

Q. Didn't you keep an account of it, of the furs that Fisch bought and that was held between you and Fisch, the amounts, the kind of furs, the cost, the sales price? *A.* Part of it.

Q. Part of it? *A.* Part of it.

Q. Who were you hiding the rest from? *A.* He was keeping care of the fur account.

Q. But you kept the account, too, did you not? *A.* No sir.

Q. At any rate, you kept an account in 1932 of your stocks and your furs and your moneys again, didn't you? A. Not furs.

Q. Not furs? A. Not furs, only a little bit of the furs, not quite all of it.

Q. How many pages, would you say, of fur accounts? A. I guess it is only one or two.

Q. From 1932 until Fisch died, only one or two pages? A. No, it is—it is only after the last time; it covers the last time for 1933, I guess.

Q. I want to show you a little book [*presenting same to witness*]. It is yours; is that handwriting on that page, 1930, yours? At the top of it is the word "Anna"? A. Yes, that is mine.

Q. On the other side is the word "Richard"? A. Yes.

Q. Are those pages yours? A. Yes.

Q. Do they represent some financial account of yours and your wife? Look at the whole book if you want. A. Yes.

Q. That is yours? A. Yes.

Q. Just one minute now. This writing here—read it. A. Well, that is in German.

Q. Well, read it in German. A. "Erhalten from Harry Roeder am 24 January, \$10.00."

Q. That means you received \$10 from Roeder on January twenty-fourth, doesn't it? A. Yes.

Q. All right. Maybe the next page will tell the story. There is a blank here and a blank there. There are some drawings there. Are they yours? A. No, they are not mine.

Q. These drawings aren't yours? A. No, they are not mine.

Q. How about the picture of that window—that isn't yours, the drawing of that window? A. That should be a window?

Q. Well, what is it? I don't know. Isn't that a ledge there? A. I even can't make out what it is.

Q. You can't make out what it is? A. No.

Q. But you can make out the ladder there with the dowel pin? A. What is that?

Q. Doesn't that look like a ladder? Does it? A. It doesn't look like—

Q. What is it, a book, a picture of a bookshelf or what? A. No, I don't know what it is.

Q. You said before, when you started, you didn't know whether you put that in or not. Now, here on the next page is an account of moneys you received from some man by the name of Roeder. A. Yes.

Q. And on the next page is a picture of something. What is that? A. You are asking me? I don't know what it is.

Q. Then a few blank spaces again; some torn sheets; then some funny drawings like a child would draw, isn't that it? A. [No answer.]

Q. That isn't yours, is it, a picture of a—that is not yours, is it? A picture of a star and those other things? *A.* No, they are little child's drawings.

Q. A child's drawing; that is right. *A.* A little child used to come in our house and play inside and he put them in.

Q. The next page is your handwriting too? *A.* That is my handwriting.

Q. That is an account of all the hours you worked, isn't it? *A.* That's overtime.

Q. Overtime, yes. And that is the same thing from time to time, your handwriting [*indicating another portion of the book*]? *A.* Yes.

Q. The number of hours you worked during those years, and the employer for whom you worked? *A.* That's only for overtime.

Q. Yes. It is all your handwriting, is it? *A.* Yes.

Q. All right, we are almost to the end. Now see if the rest of it isn't your handwriting. That at the bottom isn't your handwriting, is it? *A.* [*Witness shakes head*.]

Q. The name "Captain Hans Mueller"? *A.* No.

Q. Cross it out, will you, please? Somebody else wrote that in there; it doesn't look like your handwriting, does it? *A.* No, it is not my handwriting.

Q. You can tell your handwriting easy, can't you? *A.* Well, many people have got—German people got about the same handwriting.

Q. The last page you didn't write, then? The last page—did you write it? You didn't write it, did you? *A.* I can't make out this one.

Q. Well, if there is any doubt about it cross it off. The last page is not your signature, your writing. [*Witness marks on page*.] Except for that? *A.* All right, if you say, except for that.

Q. Except for that—just let me have the book a minute, please. *A.* I guess that is for a little child too.

Q. All right. Put an *r* on that page which you say you think is the drawing of a little child. [*Witness marks page*.] Put a circle around that *r*, will you, please, because we have got *r*'s in the back of the book—a circle around it. [*Witness writes in book*.] Now, is this also the drawing of a little child, this other piece, do you think that is too? *A.* It is not my drawing.

Q. All right. Put an *x* there, an *x* with a circle around it. [*Witness marks book*.] That *x* with a circle also indicates what you consider to be the drawing of a child in your book. But it is not yours, anyway; it is not your drawing. *A.* It is not my drawing.

Q. And as I understand it, everything in this book except the page with the *x* on top of it, the *r* with the circle around it, and two more *r*'s in back here, those two? *A.* Yes.

[*Memorandum book referred to received in evidence and marked State Exhibit S-261.*]

Q. Now, on April 2, 1932, you remember that is the date that there has

been testimony by Doctor Condon that he paid you \$50,000? *A.* Me, \$50,000?

*Q.* Yes. You recall that was his testimony. Now with particular reference to that date, April 2, 1932, you had in your brokerage accounts 50 shares of Warner; isn't that right? *A.* That's right.

*Q.* That is all the stock you had? *A.* That is all the stocks I had.

*Q.* And you had in your bank account a balance of \$200—\$202.26? *A.* That's about right.

*Q.* Now you also had a mortgage which you and your wife purchased before you started buying stocks, isn't that right, about 1927 or 1928? *A.* That's right.

*Q.* For \$3700 or \$3750, something like that, is that right? *A.* Yes.

*Q.* Now in 1929, you had, you said, about \$3500 in cash at home; is that correct? *A.* Twenty-nine?

*Q.* About three thousand or thirty-five hundred. And in 1931 you had about \$4000. *A.* Yes.

*Q.* Cash at home? *A.* Cash at home.

*Q.* That was the cash you were hiding from your wife? *A.* Yes.

*Q.* Thirty-five hundred dollars in 1929, four thousand dollars in 1931—something like that? *A.* Something like it.

*Q.* About what month in 1931 did you have this \$4000—well, you just remember the trip to California. That was in July? *A.* I only can remember when I put it in circulation I got four thousand and three hundred.

*Q.* When did you put \$4300 in circulation? *A.* Oh, slowly.

*Q.* Into your brokerage accounts? *A.* I put first \$600 in brokerage accounts.

*Q.* You put \$600 in brokerage accounts. But you had \$4300 in cash in 1931, didn't you? Did you have it in 1932? *A.* I did have it in 1932.

*Q.* On April 2, 1932, you had \$4300 in cash, is that right? *A.* Yes.

*Q.* And in 1931 you had \$4300, about that? *A.* About it.

*Q.* A little less or a little more, which would you say? *A.* Not more.

*Q.* Less? *A.* Probably a little less.

*Q.* Probably a little less in 1931. In 1929 or somewhere about there, you had a little better than \$3000 or \$3500? *A.* Yes sir.

*Q.* I take it you kept that money home, you said? *A.* Yes.

*Q.* Where in the house? *A.* In the big trunk.

*Q.* In a trunk? *A.* In a trunk.

*Q.* What did you have in the trunk? *A.* We kept stuff we didn't use in the wintertime; we put the stuff in for the summertime, and in the wintertime put the stuff for the summertime.

*Q.* You mean clothes? *A.* Clothes, yes, and other things.

*Q.* It was a dry place, wasn't it? *A.* Yes.

*Q.* It was a dry place you kept it in? *A.* Of course it was dry.

*Q.* What room did you have it in? *A.* Front room.

Q. Front room? *A.* Yes, in the big closet in the front room.

Q. You had a key to it, didn't you? Was it locked? *A.* The closet wasn't locked.

Q. No, the trunk. Was the trunk locked? *A.* The trunk was locked.

Q. Who had the key? *A.* I got a key.

Q. Did your wife have a key? *A.* No sir; the last year we lost the key; we got to break up the trunk the last time.

Q. Did your wife have a key? *A.* No sir.

Q. That was the safest place in your house; isn't that right? *A.* I guess it was the safest place.

Q. That is why you put it there? *A.* Yes.

Q. So safe that you were sure that you could keep it out of the sight of your wife; isn't that right? *A.* Well, I know my wife she goes probably only two or three times a year in this trunk.

Q. That is what I say. So safe that you thought you could keep it away even from your wife; isn't that right? *A.* Yes.

Q. And that is the only place you kept this money that you kept in hiding? *A.* Yes.

Q. Now, I want you to take a look at this account in your handwriting for 1929, with the German word "Yahr"—that means "year", doesn't it? *A.* Yes.

Q. And you have got "Richard, \$2066", and "Anna, \$1035"—altogether \$3101? *A.* Yes.

Q. That was your compilation and your addition of the moneys in your account? *A.* Yes.

Q. Is that right? *A.* Yes.

Q. And you wrote it; is that right? *A.* Yes.

Q. Now you were doing pretty well in that year 1929; and saved quite a lot of money, didn't you, you and your wife? *A.* Yes, we did.

Q. You worked as a carpenter then, didn't you? *A.* Always worked as a carpenter.

Q. Yes, and your wife worked hard, too, didn't she? *A.* Yes.

Q. And you saved money? *A.* Yes.

Q. It was slow, but you saved money, didn't you? *A.* Yes.

Q. And so you had that bond, that mortgage that we just talked about, \$3750, didn't you? *A.* Yes.

Q. And you put that in the book to show what you had? *A.* Yes.

Q. That was the only money you had, wasn't it? *A.* Yes, it was.

Q. You had stocks, didn't you, twenty-eight hundred and fifty dollars worth? *A.* Is that '29?

Q. Twenty-eight hundred and fifty dollars in 1929, yes. *A.* Yes.

Q. And you put that in the book, didn't you? *A.* Yes.

Q. You had \$150 coming from whom—what is that word? *A.* "Outstanding."

Q. People you loaned money to? *A.* Yes.

Q. And you put that in the book, didn't you? *A.* Yes.

Q. You had \$900 in cash in the bank? *A.* Yes.

Q. And you put that in the book? *A.* Yes.

Q. This was your inventory at the end of the year? *A.* Yes.

Q. Now tell us what the next words are? *A.* "Was at home."

Q. Sixteen dollars at home? *A.* Yes.

Q. Isn't that right? *A.* That is right.

Q. Not \$3500? *A.* No.

Q. Not \$3000? *A.* Yeah, but that is the reason.

Q. Just tell us what you have got in there in your own handwriting—\$16.59 home in cash, isn't that right? *A.* That is \$16 at home in cash, was my wife know.

Q. How much do you say you were worth in everything at the end of 1929? *A.* Not even—I have to figure out. On the end of '29?

Q. Yes, the beginning or the end; I don't care which it is; in the middle, any time in 1929, how much were you worth? *A.* Oh, I figure around ten thousand, nine thousand, ten thousand.

Q. Nine or ten thousand? *A.* Yes.

Q. Well, if it was nine, you wouldn't only have fourteen thousand, you have got \$7600 total assets. When you put \$7666 in this page for the year 1929, that was your total as you put it into this book of the assets; isn't that right? *A.* Yes, except the money my wife—

Q. Except the money you were hiding on your wife? *A.* Yes.

Q. All right. Now let's come down to 1930. You still had quite some money in 1930, didn't you? *A.* [No answer.]

Q. And so you kept up this record; that is, the number of hours you worked in 1927, isn't it, or the moneys—what is that, the amount of moneys you earned? *A.* Let me see it.

Q. What does that German word mean? How do you pronounce it and what does it mean? *A.* Weeks, week end, that is always the end of the week.

Q. Does that mean how much money you earned or got the end of the week, \$45? *A.* Yes sir.

Q. Twenty dollars and so forth? *A.* Yes.

Q. Those are moneys that you earned when you worked? *A.* Yes.

Q. On the other side you have got the moneys Anna earned? *A.* Yes. I didn't put the overtime in.

Q. You didn't put the overtime in? *A.* No; doors put up, screens and things, I didn't put in.

Q. Were you hiding that from your wife? *A.* Money I made I didn't show the wife.

Q. Then the next page, the same thing, week after week, you have got the amount of money you earned and the amount of money Anna earned; isn't that right? *A.* Yes.

Q. Right from week to week, correct and accurate, right to the penny, isn't that right? And then you come down at the end of 1928 and you total again the amount of money you have got in the bank, how

much of it is yours, how much of it Anna put in, how much Haberland owes you, how much Diebig owes you and how much Ernest owes you and how much you have got in the house, \$112, isn't that right, in cash? *A.* Yes, right.

*Q.* And so you are through with the end of that year. And you have \$5780. Did you ever have that much money when you were in Europe? *A.* I got billions.

*Q.* Billions in Europe? *A.* Yes. Inflation it was.

*Q.* What is it? *A.* Inflation time.

*Q.* Inflation time? *A.* Yes.

*Q.* You had billions? *A.* Yes. [Laughter.]

*Q.* That is a sort of a hallucination with you, isn't it, this billions business?

MR REILLY: May I respectfully protest—not against the question of the attorney general—but this is very important to the defendant, and this laughter out here from these people the second and third time—I protest against it, especially during the course of the examination of this witness. They seem to think it is very funny that a man makes millions in inflation.

THE COURT: Well, you are quite right in protesting. It would seem as if people who are permitted to come in here in some way, and who have no business here, ought to have decency enough to keep quiet. We have officers here who are supposed to enforce that obligation upon the part of these spectators and I would like them to busy themselves about it. That is all I can do at the moment, Mr Reilly.

MR WILENTZ:

*Q.* You didn't really have billions, inflation or otherwise, in Germany, or in Europe, did you? *A.* Well, this was inflate money.

*Q.* How much would you say was the most money you ever had in your life before you came to the United States? *A.* That only amounts to about a hundred dollars.

*Q.* About one hundred dollars. So after you worked very hard and your wife worked very hard, you finally, at the end of 1928, got \$6666 saved together, didn't you? *A.* Yes.

*Q.* And then at the end of 1929 you are still keeping an account of every dollar that you earn and every dollar that your wife earns, and what you did with it, and you take the inventory at the end of the year and you have done much better; you have saved some more money in the year and you have got up to \$7666? *A.* Now may I explain?

*Q.* Yes sir, you may explain. *A.* This is marked in my wife's name; she earned every week \$25, but it doesn't say exactly the full \$25, because my wife, she was working as a waitress in a bakery at the counter, and she always get tipped, and so sometimes it was \$30, sometimes more than that, but we put it every week \$25 in,

Q. I see. Did she hide any money on you? *A.* Well, I am not—I don't think.

Q. Well, you don't think she did, do you? *A.* Well, of course, everybody got his secret, I guess.

Q. Everybody has got his secret. Do you think your wife was hiding money on you? *A.* I never asked her.

Q. Do you think she was hiding money on you? *A.* I really don't know.

Q. You wouldn't say she wasn't, would you? *A.* I can't say anything about dat.

Q. You wouldn't give her the benefit of the doubt? *A.* I don't tink so.

Q. Well, all these amounts aren't \$25; some are twenties, aren't they, and some are fives? *A.* They are all twenty-fives, is it?

Q. There is a five, and a five; that is not two twenty-fives, is it? *A.* Well, that is for the whole, for the whole month. It would be only \$10 for the whole month. I don't know; I can't remember exactly.

Q. That is why you put it in the book, because you couldn't remember, so you put it in from week to week; isn't that right? Isn't that right? *A.* I put it in the week, to give me a showing in general how we are standing.

Q. Yes. Now, it was so general that when you came to it and you earned \$49.50 you put \$49.50 in the book, and not \$49; isn't that right, isn't that so? *A.* That \$49.50, yes sir.

Q. Yes, you even put the cents in you had earned, \$29.25; is that exact or is that just general? *A.* That is; was always been the bay [*pay*] I got from my boss, but not extra bay.

Q. Yes. Now that is the end then, July 1930—that is the end of the account. *A.* Yes.

Q. You were quite a bookkeeper during those days, weren't you? You wanted to make sure that your accounts would be kept, so you took the pencil markings in the one book and transferred them to a little book in ink, did you not? *A.* I can't remember that.

Q. Well, I will show it to you. Is this your handwriting [*presenting a book to the witness*]? This page "Jahr 1926, Richard"? *A.* Yes.

Q. "Richard Verd"; that means how much you were worth—is it? *A.* That means what I made.

Q. That is what you earned? *A.* Yes.

Q. At any rate, at the end of the year 1926 you had \$3758; is that correct? *A.* Yes.

Q. And that represented what you earned and it represented what Anna earned and it represented some money you loaned to Albert somebody and to Von Erst and to Maria, is that right? *A.* Yes.

Q. Then you have got the year 1927, haven't you? *A.* Yes.

Q. And you are up to \$5780? *A.* Yes.

Q. That is the beginning of 1928? *A.* Yes.

Q. And you have got—how much cash have you got in the house then?

"Zu Haus, \$112." What does that mean? *A.* We got \$112 home there.

*Q.* In cash? *A.* In cash.

*Q.* Now then, I showed you the 1929 entry a moment ago, in the little book where it was written in pencil, and you have it in here again, \$6666; is that right? *A.* Yes.

*Q.* Now we will come to the next page, 1929; and you copy again, don't you, from that little book, to make sure you will be able to keep it in pen and ink now you have got it—\$7666 on January 1, 1930; is that right? *A.* Yes.

*Q.* Is that your handwriting? *A.* Yes.

*Q.* Now read the last line again, "zu Haus"; how much money have you got home? *A.* Sixteen dollars.

*Q.* Sixteen dollars. Do you see that *x* in "Alexander Begg"? *A.* Yes.

*Q.* Did you write the "Alexander Bigg"? *A.* I did.

*Q.* Is that the name of the man you had the accident with? *A.* Yes.

[*Memorandum book received in evidence and marked State's Exhibit S-262.*]

*Q.* Now, in July 1931—of course in May 1931 you had \$3500 at least at home, didn't you? *A.* Yes.

*Q.* That is May 1931? *A.* No, I guess I got a little more than that.

*Q.* A little bit more? *A.* [*Nods affirmatively.*]

*Q.* In 1931, I think you did say about \$4000 in July 1931? *A.* Yes.

*Q.* That was your testimony. I want you to refresh your recollection now. *A.* Yes.

*Q.* Now, in May, two months before that, I suppose you had a little bit less, or something like \$4000, is that so? *A.* What was the last date you said?

*Q.* Let me read your testimony just to refresh your recollection. Mr Reilly asks you: "Can you tell us now about how much you had in cash just before you started for California in 1931?" Your answer was: "You mean by cash all the money in my possession, in the house? Question: In the house. Answer: Yes. Oh, in the house it was approximate a little bit over \$4000."

That is just about when you went to California. You remember that? *A.* Yes.

*Q.* July the fifth? *A.* Yes.

*Q.* So you had about \$4000. I want you to go back about two months, to May 1931. How much money did you say you had then about? You don't have to be exact; \$3700, \$3800 or \$3900? *A.* Probably a hundred dollars less. I really don't know.

*Q.* Somewhere between \$3500 and \$4000, in between? *A.* It is somewhere between \$3900 and \$4000; better put it that way.

*Q.* You had this in cash. Now don't forget that. *A.* Yes.

*Q.* That is May 1931? *A.* Yes.

*Q.* Now, you get a letter from the broker for \$74.89? *A.* Yes.

Q. You weren't doing as well in the brokerage accounts as you did in your carpenter work, were you? *A.* Well, I couldn't—

Q. In 1931? *A.* This time I couldn't watch the broker, because I was working the same time.

Q. And so you were losing money? *A.* Yes, that is correct.

Q. In other words, you found out you couldn't do the brokerage business and the carpenter work both and do them well; is that right? *A.* That is right.

Q. And while you were trying to earn a few dollars as a carpenter, Wall Street was taking away hundreds, right? *A.* That is right, that is right.

Q. You lost money until April 2, 1932, in your brokerage accounts, didn't you? *A.* Yes, I did.

Q. About \$3000 or something like that? *A.* That is about.

Q. Three thousand that you earned as a carpenter and that your wife earned as a waitress? *A.* Yes.

Q. And you were losing it right along up to, say, May 31, 1931; the market was bad, stocks were down, and the broker said to you, "Mr Hauptmann, we need \$74.89"; isn't that right? *A.* Yes.

Q. And so you wrote him a letter and said, "Wait a few days for it"? *A.* Yes.

Q. Now, you waited a few days, and did you send him the seventy-four? *A.* Oh, I can't remember. I suppose I did.

Q. Well, I am going to refresh your recollection then. Where did you get the \$74 if you did give it to him? You had \$3500 in your home in cash? *A.* As a rule I never touched—

Q. Not as a rule. I want to know, that money— *A.* If he—

Q. That money—May 1931, you got a call for seventy-four dollars and some cents from the broker? *A.* Yes.

Q. You had about \$4000 in cash in that trunk— *A.* Yes.

Q. They were going to sell your stocks out if you didn't put it up; you went and got the money. Where did you get it from? *A.* From my work.

Q. Where, from the trunk? *A.* No sir, never touched the trunk.

Q. Never touched the trunk? *A.* No.

Q. Where did you go to get it? *A.* It was probably a pay check coming.

Q. You didn't take it from the trunk, though, did you? *A.* Did not.

Q. And the reason you didn't take it from the trunk was because you didn't have anything in the trunk; isn't that it? *A.* No; as a rule I never touched the money in the trunk.

Q. Yes. You wanted to make sure that you would hide it on your wife? *A.* That is right.

Q. So you went and paid the broker. You must have paid him all the \$74; you didn't pay him less, did you, because you had a lot of money; you paid \$74, didn't you, whatever he wanted? *A.* I suppose—

Q. When you got the letter you finally paid him the \$74, four days afterwards, didn't you? *A.* Well, I am not quite sure if I paid him them \$74.89 four days after. I said I was going to pay him four days after, but if I did, I am not quite sure.

Q. Why did you write him when he asked you for \$74.89 and you were worth \$10,000, why did you write him and ask him to wait four days? *A.* Because I ain't got them \$74 not quite handy, and I was not going to touch the money I got at home.

Q. Thousands of dollars in cash laying in a trunk, money in a bank, stocks, mortgages, and not quite handy? *A.* Yes.

Q. Is that the best explanation you can give? *A.* Why should I take it for an amount for \$74 and probably sell a mortgage or something?

Q. Well, you didn't have to sell the mortgage. *A.* Sure.

Q. Because Anna wouldn't let you, would she? *A.* No, that's right too.

Q. Certainly that's right. *A.* Sure.

Q. And that is why you didn't use the mortgage, is because Anna wouldn't let you, isn't that right? *A.* [No answer.]

Q. Well, at any rate, she wouldn't let you use the mortgage. Now forget the money in the trunk for a minute. *A.* Yes.

Q. Anna wouldn't let you sell the mortgage in 1932. And the only thing you have got besides the mortgage and the trunk is 50 shares of Warner and \$212 in cash; isn't that right? *A.* Yes.

Q. That is all you were worth that day, outside of those two items; isn't that right? *A.* That again.

Q. On April the second, that's all you were worth outside of the money you say was in the trunk and Anna's mortgage, the \$212 and the 50 shares of Warner. *A.* Yes. There was a little bit money that amounted to a few dollars that was outstanding; I don't know who it was.

Q. You weren't such a good stock-market operator, were you? *A.* Well, you have to—the first time you got on the stock market you have to pay for it.

Q. And the first time you build a ladder you don't build a good one, do you? *A.* I never build a ladder.

Q. If you did build a ladder, the first one wouldn't be so good, would it? *A.* I guess the first one would be very good.

Q. Very good, hey? Well, let's take a look at this \$74 again. Do you remember whether you paid the \$74 or whether you let him sell the stocks? *A.* I can't remember, the amount is so little.

Q. Let me refresh your recollection. Didn't you then pay \$50 on account of the \$74.89 and take that \$50 from your bank account? *A.* I don't know.

The witness admitted that he paid \$50 on account of the \$74.89, and that on December 2, 1931, he received a telegram from the brokerage firm demanding that he pay the balance of the debt. From the stand he

read the telegram, which included a phrase "having no response to our previous communications."

Q. You had already received letters before that and notices to put up the \$24, hadn't you, and you didn't put it up, did you? *A.* Because the amount was too little. I really didn't care much for it.

Q. How about the \$74.89? You didn't put that up; it was too big, wasn't it? *A.* Well, you said I put up \$50 of it.

Q. Yes, the \$74.89, but \$74.89 was too big, so you only put up \$50. *A.* I explained it. Maybe I . . . sent him a letter to wait until Saturday and probably my pay check on Saturday was only \$50, I suppose, and I sent him the \$50.

Q. As a matter of fact, at the end of 1931, you were running very low for money, weren't you? *A.* No, I wasn't exactly running low for money.

Q. You had lost a lot of money? *A.* I lost a lot of money; that is right.

Q. And that is why you took some time to pay this \$74, because you were getting down to where there was no more money left; isn't that right? *A.* No, I was willing to take some of my money out from the trunk, so I pushed it out as far as I could.

Q. When it came to losing money, you were losing Annie's money? *A.* Just the same my money.

Q. But what you were saving was your money from the trunk, wasn't it? *A.* Yes.

Q. Did you want to get away from Mrs Hauptmann? *A.* No, it just happens that—

Q. Didn't you say, when Mrs Hauptmann came back from Germany, that you couldn't live with her any more? That was when you had all these thousands of dollars at home? *A.* What?

Q. Didn't you tell that to Mr Brent; that you can't get along with Annie any more? Well, you did or you didn't. *A.* Do you know what you are talking about?

Q. Yes, I know what I'm talking about. You answer the question. *A.* You are talking about my wife and me?

Q. I am talking about you and your wife, yes. Did you say that to Mr Brent? *A.* No.

Q. Now, when Fisch gave you this box, this shoe box, he told you to keep it in a dry place, didn't he? *A.* Yes.

Q. Don't forget that now. He told you to keep it in a dry place. *A.* Yes

Q. And a safe place. *A.* Yes.

Q. How much money was in that box? *A.* [No answer.]

Q. You counted it many times. How much was in the box? *A.* I find it out later; it was close to fifteen thousand.

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Q. Why don't you know the amount? *A.* Because I took a few out of there and I really don't know.

Q. Before you took the few out, how much was in there? *A.* I didn't count it.

Q. You didn't count the gold you found? *A.* I did count it.

Q. You did count it? *A.* After I—

Q. How much was in there? Don't get away from it. *A.* Close to \$15,000.

Q. You don't know how much? *A.* Not exactly.

Q. Was it \$14,900? *A.* Can be.

Q. Was it \$14,800? *A.* Can be.

Q. Was it \$14,700? *A.* Can be.

Q. I don't want to know "can be." I want to know how much it was. *A.* I told you.

Q. You don't know? *A.* Not exactly.

Q. Not within a hundred or within two hundred or within three hundred or within four hundred, do you know? *A.* I said close to \$15,000.

Q. How close? *A.* Say \$14,800.

Q. That is a guess? *A.* Pretty close.

Q. It is a guess; you don't know the exact amount? *A.* Not exactly.

Q. When you found that money and you took it into the garage to dry it, you didn't count it then, did you? *A.* When I bundled it.

Q. You just answer the question. You know what I am asking you. When you took that money from that shoe box down into that garage and you took those gold certificates and put them in a basket, one after another, fives, tens and twenties, whatever they were, you didn't count it, did you? *A.* No.

Q. You let it lay in a basket all night and you didn't count it? *A.* That is right.

Q. You let it lay another night and you didn't count it? *A.* That is right.

Q. The reason you didn't count it was because you knew, didn't you? *A.* I didn't know anything. I didn't—

Q. Thousands of dollars lying around of strange money; you find it and you don't even count it; is that right? *A.* It was hard to count.

Q. Hard to count? *A.* Because it was all wet.

Q. For two weeks you left that money in the basket without counting it, didn't you? *A.* I counted always when I took the dry one out.

Q. After it dried, two weeks later, you counted the money, didn't you? *A.* Now listen, the first money I took out—

Q. Not took out; I want to know when you counted it. We will come to your taking it out. *A.* Always when I took the dry ones out, I counted the dry ones.

Q. You take a few out and count the dry ones? *A.* Yes.

Q. It took two weeks for you to count the money? *A.* Yes.

Q. It took two weeks for the money to dry? *A.* I suppose so.

Q. For two weeks you left gold lying in the basket and didn't know how much was there? *A.* That is right.

Q. The trunk was a safe place, was it not? *A.* It was.

Q. The trunk was a dry place, wasn't it? *A.* Yes.

Q. When you had money and you really wanted a safe place, you put it in the trunk, didn't you? *A.* Yes.

Q. Everything that you thought was dear to you in this world, by way of physical assets, the thing that you loved the most, money, you kept in that trunk because it was safe and dry; isn't that it? *A.* That is not the way I lose most money.

Q. But you kept all the money you had in that trunk because you thought that was the best place for you to keep it? *A.* Yes.

Q. Better than the bank? *A.* No, no; not better as a bank.

Q. Now Fisch, he was your best friend, wasn't he? *A.* Not my best friend.

Q. And he told you to keep this money in the box? *A.* Not money.

Q. Not the money—the box, in a safe place? *A.* Yes.

Q. He was very sick; you knew that? *A.* Well, he was sick, but I really—

Q. You thought he would come back? *A.* That is true.

Q. But you knew he was suffering from tuberculosis or something like that; you knew that, didn't you? *A.* I—now listen. I was asking a couple of time about his sickness. He always said, "Never mind, I am all right."

Q. Well, did you know it? Did you know it? *A.* I know he was a little bit sick, but I never took it so serious.

Q. Well, he was sick, anyway? *A.* Yes.

Q. You didn't expect him to die, though? *A.* No sir.

Q. And here was your sick friend going home, and he asked you to keep this box in a dry place? *A.* Yes.

Q. You knew from the day you moved into that house that that closet was a wet place, didn't you? You had complained about it all the time; isn't that the fact? *A.* Complained a couple of times, yes.

Q. But even though you knew that was a wet place, it was a wet closet, even though Fisch told you to keep it in a dry place— *A.* Yes.

Q. He told you there were papers in it; you put it in the closet? *A.* Because I couldn't go in the front room and I couldn't go in the middle room, either, when Fisch gave me this package.

Q. You mean that night? *A.* That night.

Q. Who was going to stop you? Weren't you the boss of the house? Weren't you the master of the house? *A.* Yes, but I got somebody in the front room; my wife was in the baby's room; and so I put it in this closet, and I forgot all about it.

Q. Well, why couldn't you take it right there that very night—why didn't you take it there? *A.* I didn't like to disturb the baby.

Q. And you forgot all about it afterwards? *A.* Yes.

Q. Well, finally you found it? *A.* Yes.

Q. You made a mistake; you put it in a wet place; Fisch asked you to put it in a dry place, you put it in a wet place, but you finally found it? *A.* I found it; that is right.

Q. And you found it because a broom hit it; isn't that right? *A.* Yes.

Q. A broom hit the box and you saw money? *A.* Yes.

Q. When was that? When was that? What date, what month? You don't know, do you? *A.* It was the middle of August.

Q. Nineteen thirty-three? *A.* Nineteen thirty-three. It was on a Sunday—

Q. Was your wife home? *A.* My wife, she was home, yes.

Q. And you went to the closet? *A.* I went to the closet.

Q. And you took the broom? *A.* Yes.

Q. And you were going out with it; isn't that right? *A.* That is right.

Q. And when you did that, walking out of the closet with the broom, you hit that box? *A.* No, walking that way I couldn't, I couldn't hit the box.

Q. Well, how did it happen then? That is what I want to know. *A.* Probably the broom was mixed up or there was another broom and stuff laying in the closet.

Q. What shelf on the closet was it? *A.* The upper shelf.

The defendant testified that he settled the claim for his automobile accident for \$300 or \$350 in December 1932.<sup>1</sup>

Q. You met Mr Fisch at the Henkels' home, didn't you? *A.* I met Mr Fisch at Hunters Island.

Q. Weren't you introduced to Mr Fisch by the Henkels? *A.* We knowed each other before.

Q. Fisch lived with the Henkels, didn't he? *A.* He lived in the same house.

Q. Now, Hauptmann, isn't it a fact that you are saying that you met Fisch before June because you are attempting to account in that way for the moneys that you deposited before June? *A.* Positively not.

Q. Didn't you tell the police in your explanation of how you met Fisch that when you went to the Henkel home to meet Mr Henkel, Mr Fisch came into the house and they introduced you? *A.* But we knowed each other before.

Q. Didn't you say to the police at the Bronx . . . "I was sitting with a family named Henkel; he was boarding in the same house. Mr Fisch often . . . came downstairs for company." Didn't you say that? *A.* Probably I said that, yes.

Q. Isn't that where you met him? *A.* Yes.

Q. Isn't that where you were introduced to him? *A.* But it doesn't mean first.

<sup>1</sup>See previous testimony that in March 1933 he changed his account to the name of Anna Schoeffler because he was worried about the accident claim.

Q. When did you meet Fisch? A. First part of March or first part of April.

The witness admitted that he hadn't known Fisch prior to March first, and was therefore forced to admit that Fisch "could not have copied his handwriting" in any ransom notes. "I never said that," Hauptmann declared. He admitted that he occasionally stopped at the Henkel home and had a cup of coffee with Mrs Henkel, on his way to the brokerage office. He also admitted that Mrs Hauptmann had not approved of his friendship for Mrs Henkel. He could not remember that he first heard the news of the finding of the Lindbergh child's body over a radio in Fritz Hahn's restaurant and that he "rushed right out."

Q. Do you remember sometime around the first week of March, of the middle of March, when you came into that restaurant, Mr Fritz Hahn hollered to you, "Richard, how is your leg?" right across the restaurant. Do you remember that? A. No sir.

Q. And you said absolutely nothing. Do you remember that? A. Will you fix a date, set the time?

Q. About the middle of March, maybe the first week of March, after the first of March. A. I really can't remember in dis time I was in his restaurant at all. I don't tink so.

Q. Do you know what this is, Mr Defendant? [*Exhibiting the plank S-204 to the witness.*] You do, don't you? A. A piece of board, yes.

Q. From your house? A. I really don't know if it is from my house. That is a piece of trimming and a piece of trimming from every house looks the same.

Q. That is from your closet, isn't it? A. I am not quite sure.

Q. You are not quite sure? A. No.

Q. That is your handwriting on it, isn't it? A. No.

Q. What? A. No sir.

Q. That is not your handwriting? A. [*Shaking his head.*]

Q. You take a look at that. You have seen it many times before. I will take the paper off for you so it will be easier. [*Counsel removed the cellophane wrapper on the board.*] Take your time about it, now. First, tell me are the numbers your handwriting. A. The numbers look familiar upwards. I can't remember for putting it on.

Q. Just keep looking at those numbers and tell me whether or not they are in your handwriting and that you wrote them, the numbers. A. I can't remember putting them numbers on.

Q. Did you remember better when you were talking to District Attorney Foley? A. At that time I was quite excited.

Q. Were you excited when you got before a Supreme Court justice in the State of New York in your extradition proceedings? A. I say yes.

Q. You didn't tell the truth there, you mean? *A.* Well, I was quite excited then.

Q. Didn't you know that if you had Doctor Condon's telephone number and address on the inside of your closet, that that was a serious thing so far as you were concerned? *A.* I never was thinking about it.

Q. Do you remember District Attorney Foley asking you, "Why did you write it on the board?" Do you remember that? Do you remember the question? *A.* I can't make out them single questions.

Q. Now, do you remember this answer to that question: "I must have read it in the paper about the story. I was a little bit interest and keep a little bit of a record of it and maybe I was just in the closet and was reading the paper and put down the address"; do you remember that? *A.* Not exactly; I—

Q. Will you say that you didn't? *A.* I don't want to say that, I didn't—

Q. You don't want to say you didn't answer Mr Foley that, do you? *A.* I really can't say yes or no about it.

Q. That is, you don't want to say yes or no to this: that you told Foley that you must have read it in the paper, the telephone and the address of Doctor Condon, you were a little bit interested, and you kept a little bit of a record, and maybe you were in the closet and were reading the paper and you put down the address; you won't say yes or no, that that was what you told him? *A.* I guess I told him something about it.

Q. Now, Mr Hauptmann, what you mean then is this: that you have got a habit of writing down telephone numbers and addresses of things that are interesting; isn't that right? *A.* Yes.

Q. And you must have read this in the paper and you were near the closet, so you wrote it down; that is what you mean, isn't it? *A.* There is a possibility, but I can't remember—you took this piece of wood, you said you took this piece of wood from the closet, and it is impossible to stay inside in the closet and to write or read.

Q. Well, you know you wrote some of it; you know that, don't you? You remember that? *A.* But I am positively sure I wouldn't write anything in the inside of a closet.

Q. You know that part of it, part of the numbers, are your handwriting; you know that, don't you? *A.* It looks like it.

Q. Well, didn't you say in the Bronx, many times, that you wrote the numbers on? *A.* I said it looks like that.

Q. You told Mr Foley that it was, and you told me in court that it was, in the Bronx, didn't you? *A.* [No answer.]

Q. And didn't you say at that time that the reason you wrote it in there was just like you said a minute ago, that you had a habit of writing those things? *A.* Yes, I said so, but that doesn't—

Q. And that is why—sir? *A.* That doesn't include this board. I

wouldn't make any notice on the inside of any closet where you have no chance to stand to write or read; it is impossible.

Q. Did you tell the district attorney at that time the truth, when he was talking to you about this board, S-204? *A.* Well—

Q. You don't know whether you told him the truth? Why don't you answer the question, Mr Defendant? *A.* For the first time he brought this piece of wood and he said that's from my closet. Well, anybody can show me a piece of wood like that; you find it in every house. I didn't even think of it what I said.

Q. Oh, you didn't even think of it. Did you tell District Attorney Foley the truth when he spoke to you about this board, S-204? You might just as well answer it because I'm going to stay here until you do. *A.* The truth; well, I told him—

Q. Did you tell him the truth? *A.* I told him the truth, yes.

Q. Did you tell the truth about this board in the Supreme Court in New York? *A.* I—

Q. Why do you hesitate? *A.* I am not.

Q. Well then, why don't you answer? Either you did or you didn't. *A.* You have to give me a chance.

Q. I will give you all day but you ought to know whether you told the truth in court. *A.* No, I have to trans—I am thinking in German and I have to translate it in American language, and it needs quite a bit of time; so excuse me.

Q. But just the simple question of whether you told the truth in the Bronx courthouse— *A.* When I told Mr Foley—

Q. No, please. I am going to ask you the question again. When you were examined in the Bronx courthouse specifically about S-204, did you tell the truth there? *A.* I was—

Q. Please, will you— *A.* I was not willing—

Q. Pardon me; will you please answer the question. Can't you answer it yes or no? You either told the truth or you didn't. Then you can give the explanation. *A.* Well, I guess I explain it first.

Q. Will you please do us the kindness of abiding by the rules of the court and answer first yes or no. Did you tell the truth about this board when you were being examined in the Bronx County courthouse under oath about this board? *A.* Then I say no.

Q. You didn't tell the truth there? *A.* No.

Q. All right; now just stay there for one minute.

MR POPE: Wait a minute now.

*A.* You want to give me a chance to explain?

THE COURT: He may have it.

*A.* When I saw Mr Foley the first time speak about this particular board here, I never said yes, and I never said no, because I never could make out and I never could remember putting it out, and when it came up in the courtroom, I only simple said yes, mitout thinking of it.

MR WILENTZ:

Q. Your wife was in there saying to you, "Richard, please tell the truth," every day, wasn't she? *A.* Yes, she was.

Q. And with all that, with the charge of murder against you by the State of New Jersey and your wife pleading with you to tell the truth, you walked in before a Supreme Court justice and you lied, and when you lied, you knew you lied, didn't you? *A.* No, that is not lying. I give this answer mitout thinking anything; I could just as well say no or yes.

Q. Let me read you some of your answers then. "How did you come to put the telephone number on there?" And your answer was, "I can't give you any explanation about the telephone number." Then your next question—I read that to you a minute ago—"Your only explanation for writing Doctor Condon's address on this board and telephone number is that you were probably reading the paper in the closet and you probably marked it down?" And wasn't your answer as follows: "It is possible that a shelf or two shelfs in the closet and after a while I put new papers always on the closet, and we just got the paper where this case was in and I followed the story, of course, and I put the address on there"? Did you say that to Foley? *A.* Yes.

Q. You had on the door panel, that same door, some numbers of big bills, didn't you? *A.* Yes.

Q. What were the size of those bills—\$500 and \$1000, weren't they? *A.* It was a thousand, I guess.

Q. Thousand-dollar bills? *A.* Thousand-dollar bills.

Q. How many thousand-dollar bills did you have? *A.* I can't remember now. When I put it on it was summertime, '32.

Q. Yes, sure, summertime, '32; after April 2, 1932. *A.* No, summertime, '33; I wish to correct.

Q. Oh, I see. *A.* I got \$2000 I should put in the stock market and I didn't put it in the stock market. I brought it to the bank, and I kept it home for a few days.

Q. Two one-thousand-dollar bills? *A.* Yes.

Q. Tell me, where did you get those one-thousand-dollar bills? *A.* That is Mr Fisch brought it in my house to put it in the margin.

Q. Now do you remember being asked this: "Is there anything more you want to say about it or add to it?" You were asked that and your answer was this: "No. About them two numbers, I am sure it was five-hundred or thousand-dollar bills." Do you remember saying that? *A.* I guess I did say so.

Q. You didn't even know whether it was a five-hundred- or a thousand-dollar bill; isn't that right? It was one or the other? *A.* Yes, one or another.

Q. You mean to tell me that you sat in the Bronx courtroom talking to Foley about five-hundred-dollar bills and thousand-dollar bills and

didn't know whether it was five hundreds you had or thousands?

*A.* That is true; I don't know if it was a five—

*Q.* You didn't know? *A.* —hundred-dollar bill or a thousand-dollar bill.

*Q.* A man that had—the greatest amount of money you ever had in Europe was \$100 and you couldn't remember in 1932 whether the bills laying around the house were thousand-dollar bills or five hundreds? *A.* This time, '33, I get quite a lot of money to put in the market, put in force, so I really—I couldn't remember if it was five hundred or a thousand.

*Q.* You are having a lot of fun with me, aren't you? *A.* No.

*Q.* Well, you are doing very well. You are smiling at me every five minutes. *A.* No.

*Q.* You think you are a big shot, don't you? *A.* No. Should I cry?

*Q.* No, certainly you shouldn't. You think you are bigger than everybody, don't you? *A.* No, but I know I am innocent.

*Q.* Yes, you are the man that has the will power; that is what you know, isn't it? *A.* No.

*Q.* You wouldn't tell if they murdered you, would you? *A.* No.

*Q.* Will power is everything with you, isn't it? *A.* No, it is—I feel innocent and I am innocent and that keeps me the power to stand up.

*Q.* Lying, when you swear to God that you will tell the truth. Telling lies doesn't mean anything. *A.* Stop that!

*Q.* Didn't you swear to untruths in the Bronx courthouse? *A.* Stop that!

*Q.* Didn't you lie under oath, time and time again? Didn't you? *A.* No, I did not.

*Q.* When you were arrested with this Lindbergh ransom money, and you had a twenty-dollar bill, Lindbergh ransom money, did they ask you where you got it? Did they ask you? *A.* They did.

*Q.* Did you lie to them or did you tell them the truth? *A.* I said not the truth.

*Q.* You lied, didn't you? *A.* Yes.

*Q.* Lies, lies, lies, about Lindbergh ransom money, isn't that right? *A.* Well, you lied to me too.

*Q.* Yes? Where and when? *A.* Right in this courtroom here.

*Q.* We will let the jury decide about that. In this courtroom. Did I ever ask you a question outside of this courtroom? Did I ever come into that jail to ask you anything? *A.* No.

*Q.* You see you are not smiling any more, are you? *A.* Smiling?

*Q.* It has gotten a little more serious, hasn't it? *A.* I guess it isn't any place to smile here.

*Q.* "I am a carpenter." *A.* I am.

*Q.* That was funny, wasn't it? *A.* No sir, there was nothing funny about it.

Q. You had a good laugh, didn't you? Did you plan that in the jail there? Did someone tell you to give that answer when I asked you about the ladder, to stand in front of the jury and say, "I am a carpenter?" *A.* No sir.

Q. You thought that out yourself? *A.* No, I didn't think anything about it.

Q. Let me ask you something. You have got a peculiar notion about will power, haven't you?

MR POPE: Well, I think this has gone just about far enough.

MR WILENTZ: I will withdraw the question. If it has, may we have a recess, if your honor please?

MR POPE: I think we ought to come back into a courtroom and see if we can't get down—

MR WILENTZ: Now, I object to that. I think it is a reflection on the Court.

THE COURT: What do you mean by that, Mr Pope?

MR POPE: Well, I mean this patent abuse of the witness. It seems to me it is about time we protested against it. It has been going on for quite a while.

THE COURT: Whenever you have any occasion to protest, you make your protest to the Court, while the thing is going on, and the Court will deal with it. It always has and will continue to do so. We will now take a recess for five minutes.

After recess, in a somewhat calmer atmosphere, the defendant said he had been in his attic, but that he had never noticed a board missing from the flooring. He admitted having told untruths about the money in his garage to the officers who arrested him, but asserted that he had told General John F. O'Ryan, police commissioner of New York City, about the hoard, before the police found it. When he discovered the ransom money in the box on his closet shelf, the money was so wet he had to wring it out. His wife kept brooms, soap, polish, mops and toilet paper in the closet. A tin box with soap coupons was on the top shelf. Mrs Hauptmann's aprons hung inside the door. He insisted that, despite the evidence of Government Agent Frank, he had made rather than lost money in the stock market. He "figured" that Fisch lost about \$15,000 in the market.

MR WILENTZ:

Q. You know that you have books with these stock accounts, don't you? *A.* Yes.

Q. And you know the books won't show those figures. You know that, don't you? *A.* My books shows only partly.

Q. But you kept an account of every stock that you bought, didn't you? *A.* Every stock I bought, yes.

Q. And you kept an account of the stocks you bought for Fisch? *A.* No sir.

Q. You loaned Fisch \$5500, didn't you, in cash? A. No.

Q. Now, Hauptmann, you tell the truth. Didn't you loan him \$5500 in cash? A. No.

Q. Out of your private bank account? A. No.

Q. Did you write the Fisch family after your friend died and explain your accounts with Fisch? Didn't you write to them that you loaned him \$5500 in cash out of your private bank account? A. Yes, I did.

The defendant's explanation of his statement to the Fisch family was that "nobody knowed how we was standing, profit from furs, and there was some from the stock account. In other words, I got to get \$5500 for Mr Fisch."

Q. He owed you \$5500? A. Yes. But he said he hasn't got any money; he has got all invested in furs. And I said, "All right, leave it this way: leave them \$5500 in your account."

Q. But you told them in the letter that you got \$5500 from your private bank account; isn't that the fact? A. That's the fact.

Q. Did you get it out of your private bank account, please? A. I didn't have any private bank account.

Q. Well, where did you get it, then? A. The \$5000 is still \$5000, if I take it from a bank or if he owes me.

Q. When you found out that there was Fisch's money, \$14,000 in gold, did you write to Fisch's family and tell them about it? A. Well, it was a short time before I got arrested when I found it.

Q. You were spending the money already, weren't you? A. Yes. I guess I am entitled to it.

Q. Did you write to the family of your best friend and say, "I found this money"? A. No, I did not.

Q. You wrote them a couple of months before that all you had was a couple of trunks worth nothing, didn't you? A. Yes.

Q. You wouldn't tell them about the money when you found some, would you? A. I knew Mr Fisch was coming over, anyway.

The witness admitted that he never mentioned, in letters to the Fisch family, the fact that Isidor left a shoe box in his possession, and said he had forgotten about it.

Q. And when you did find it, you forgot to write them; isn't that right? A. Oh well, no. I was—

Q. You were saving the secret for them? A. No.

Q. Until Fisch came over? A. Yes. I wouldn't keep the money.

Q. No; you were not going to keep the money? A. But I was going to keep my share what was coming to me, what it was.

## TWENTIETH DAY

*Flemington, N. J., January 29, 1935.*

**B**RUNO RICHARD HAUPTMANN resumed the stand.

A pay check was introduced in evidence. It showed that the defendant was paid \$3.33 a day, or at the rate of \$100 a month, rather than at the rate of \$80 a month. (Hauptmann had given, as an excuse for quitting his job in April 1932, the excuse that he had been promised \$100 a month and found he was only getting \$80.)

The witness testified that in May 1932 he paid \$400 for a new radio and that in July of the same year he bought a pair of field glasses for \$126. He denied that Fritz Hahn, the restaurant proprietor, ever saw packages of money lying in the top part of a Victrola. He denied that he remembered Hahn's ever having been in his home, dismissing the attorney general's question with the phrase . . . "I got the impression you are making up a big story here."

Hauptmann had not told the story about walking the Fredericksens' dog on the night of March 1, 1932, when he was on the stand in the Bronx, he said, because "there are so many things you can't remember the first time." The attorney general displayed to the witness a number of deposit slips showing unusually large deposits of silver and coins. Hauptmann insisted that the various entries were errors.

*Cross-examination by MR WILENTZ [continued]:*

Q. Before 1932, during all the time you kept a bank account, you didn't have \$12 altogether in silver, did you? *A.* Oh, I can't remember.

Q. Here is another one [*deposit slip*]. Ten dollars in silver, is that right? *A.* Yes, \$115 in bills.

Q. April 16, 1932, where did you get that money? *A.* Some of the money—my wife was a little disgusted there was no more money in the bank; I put something from the \$4300 in the bank.

Q. So you took out of the \$4300 that you were hiding away from her in the trunk and you put that money in there? *A.* Some of them, yes.

Q. After April 2, 1932, you told us you bought—you told us about the radio and you told us about the field glasses. Did you buy a canoe? *A.* Yes.

Q. Did you take a hunting trip? Several hunting trips? *A.* Well, I really can say only one.

Q. Did you take a trip to Florida? *A.* Yes.

Q. And your wife went to Germany? *A.* Yes.

Q. And during all that time neither you nor your wife worked? *A.* I was working—well, I made enough money on the market and on the fur.

Q. Well, about how much would you say you earned as a carpenter from 1932—April 1932, until September 1934? *A.* Couple hundred dollars.

Q. On the day you were arrested and this \$20 was found in your possession you told the authorities that you had started to circulate these gold ransom notes for a few weeks; isn't that right? *A.* I can't remember what I said to them.

Q. Well, you did. You had been circulating them for a few weeks, hadn't you? *A.* Yes.

Q. Because you needed the money? *A.* Oh no, I didn't need the money really. . . . I just keep as well put it in the box and leave it there. I don't see any particular reason for put it in circulation.

Q. Why did you circulate it, then? *A.* Well, I thought I don't—I wouldn't take any check for stock account, and so I spent it.

Q. So that you took it because you didn't want to take money out of your stock account and you had to have money for living expenses; so, as you needed money for living expenses you took; if you needed money for gasoline, you took a ten-dollar bill or a five-dollar bill or whatever it was, and you went down and you got gas and you got change. Is that right? *A.* Yes, that is right.

Q. Before that time when you needed living expenses, you took it from the brokerage account; isn't that right? *A.* Well, or check out of the bank.

Q. Well, if you needed that money so badly while you were doing that in August and September 1934— *A.* Yeah—

Q. —why did you deposit a couple of hundred dollars during August and September if you needed the money and didn't want to take it out of the brokerage accounts? *A.* . . . The one bank I opened—it was from the Mount Vernon Bank, Mount Vernon Trust Company. This bank was closed, und—and I opened a new bank in Eighty-sixth Street. I took out \$109 from Mount Vernon and the rest—in the meantime I spent the money, them gold certificates. I still took out a check from my brokerage account, and even from the bank account we took out money.

Q. Why didn't you use that money for expenses instead of the gold? *A.* Which one do you mean?

Q. The money you got from Mount Vernon. *A.* . . . I guess my wife, she didn't really know I got a bank account in Mount Vernon. . . . Only I transferred money from Mount Vernon to the Eighty-sixth Street, \$110, and then I put the—took check from the brokerage account and some from the bank and get some money in this bank,

that should be our expenses for this year to Germany, so I want to put it up little by little.

Q. You wanted to build it up little by little? *A.* Yes.

Q. In order to have enough money? *A.* Yes.

Q. Well, you had thousands of dollars in September 1934, and you knew you had it, didn't you? *A.* You mean in stock?

Q. In everything; thousands and thousands you had in September 1934, didn't you? *A.* It was never my intention to spend more money for them gold certificates as I did.

Q. How much did you intend to spend? *A.* All I did spend; I wouldn't have spent any more.

Q. You were going to stop then, even if you weren't arrested? *A.* Yes.

Q. What were you going to do with the balance? *A.* You mean mit the other certificates?

Q. Yes. *A.* Give it to Mr Fisch.

Q. Why did you touch the twelve or fifteen [*bills*] if you weren't going to touch the others? *A.* I tell you there is no special reason for it.

Q. And the rest you were going to give to Mr Fisch's brother? *A.* My intention was to give him \$12,000.

Q. That being so, why did you take these twelve or fifteen— *A.* Now, I want to explain it before I get any farther. When it was all to Fisch, I went to this can here with them \$12,000. I kept them \$2000 that was packed separate. I kept it away, and even them seven or eight hundred dollars was in this piece of wood. My intention was to give him \$12,000, if there is any trouble would come up, so I would be on the safe side to have my \$2000, and then \$800 was different from stock—I got it on the safe side.

Q. So that if there was any trouble and they found the money you would at least have the two thousand that belonged to you? *A.* Yes.

Q. What trouble were you afraid of? *A.* Maybe Mr Fisch, he wouldn't believe me.

Q. How could Fisch find—how could Fisch's brother in Germany find the money hidden in your garage in the Bronx? *A.* I would give it to him.

Q. Well, then you wouldn't have any trouble, would you? *A.* By giving him the whole amount he would said—now I said, "Listen, your brother owes me so and so much money," and he would said, "Have you got any slip or anything written?" And I can say only no.

Q. Did you hide the money in the garage so Fisch's brother couldn't find it? *A.* I would show him myself the money.

Q. Why did you hide the money in the garage? *A.* If somebody comes in, he takes it away.

Q. You had a bank account. You had a vault. *A.* Yes.

Q. You didn't put it there? *A.* No.

Q. Why didn't you hide it in the trunk? *A.* That is what I said; I have to hide it someplace.

Q. When you had \$4200 of your own to hide, that you wanted to hide from your wife, you didn't hide it in the garage? *A.* No.

Q. As a matter of fact, you knew that you were planning to go to Germany right at that time, weren't you? *A.* Oh, that is planned for a year already.

The witness said that he had not turned the gold ransom certificates into the Federal Reserve Bank because the amount was so large and he was afraid questions might be asked and his illegal presence in the country discovered. His earlier statement to the police that he "did not know where there was a Federal Reserve Bank", he said, was an error. When he took his trip to California in 1931, he testified, he left a satchel containing the \$4300 he asserted had been in his trunk at home, with an uncle in Brooklyn named Cleifus.

Q. You didn't put it in the bank? *A.* No.

Q. No; you didn't like to put it in the bank in 1931. *A.* Otherwise, my wife would know it.

Q. Well, your wife didn't know about the Mount Vernon account, did she? *A.* I don't—I don't know if she knows about it or not.

Q. How would your wife know if you opened a bank account somewhere in New York under your own name or under one of the other—or under any name that you used? *A.* I never used any other name.

Q. Well, under your name, then? *A.* I usually tell her.

Q. Well, if you didn't tell her, she wouldn't know even though you did open an account in a bank, would she? *A.* She would know.

Q. If you didn't tell her? *A.* It is probable she finds a book at home, a bankbook.

Q. Well, you could hide the book in that trunk, couldn't you, where you were hiding the money? *A.* Well, I kept the book in the writing table.

Q. Wouldn't it be safer to hide a book in a trunk than it would be to hide money? *A.* No, because it isn't actual money, the book.

The witness's account book, previously introduced in evidence, was shown to indicate that Hauptmann had made a profit of \$1737.51 in furs, and that the only money Hauptmann ever received from Fisch was \$2000. The defendant insisted that he put only a few of the fur transactions in the book.

Two letters, written by the defendant to a brother of Isidor Fisch, in Germany, were admitted in evidence and translated by GEORGE MADISON PRIEST, sworn as a witness for the State.

After speaking of Isidor as his "best friend", the writer continued:

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“. . . In the spring of 1933 I undertook a small transaction for Isidor in which I was certain that he could only win, and so it happened too. In this way we gradually came to talk more and more about business matters. I gave him several times money for the purchase of skins and so he also gave me the same sum for my dealings in stocks and bonds. We shared every time the gain or if we had lost. . . . So we decided to work together each in his branch and on a mutual basis of half and half in profit and loss. We also agreed that if one should sometime need more than the half of the capital laid out, the other should take from his business what is necessary. On the first of November 1933 we decided to begin our business with \$35,000, each a half. After we had reckoned up everything, the value of my stocks and bonds . . . was \$12,000. . . . I gave him \$5500 from my private bank account so my half was in full in the business \$17,500. . . .

“On the thirteenth of November '33 Isidor asked if I would take \$2000 out of my business for his trip; if not he would sell some of the skins. But we agreed that it is best to leave the skins lying in case of inflation. . . . Now I took \$2000 out of my stocks and bonds account and gave it to Isidor. . . . I have entered everything in my books, purchases and sales, but not the storehouse where he has everything. He told me many times, but I did not make a note of it. Dear Mr Fisch, how do you plan now to regulate everything? I take the liberty of making you now the following proposition. If you will come here yourself and regulate everything, it would, to be sure, take a great deal of your time to put everything in order, for the opening of the safe-deposit box can take place only with the authority of the court, but the value of the things would certainly make it pay. . . .

“Or will you engage an attorney who is to regulate everything? I would certainly advise against your taking this step, for you probably know how people work in such cases and especially in America. In the end there would be nothing left and this would be a blow to his dear survivors and also for me. Another way is the following: If you will accord me the same confidence as your deceased brother, then I would regulate the whole affair. If I am to take it over, send me, please, all authority. Go, please, to the American consulate, for Isidor was an American citizen. There you will probably learn everything that is necessary in regard to papers. . . .

“. . . I still have two trunks belonging to Isidor in my apartment. There are no important things in them, but should you be interested, I will send the same to Germany. . . .”

The second letter recited that Isidor Fisch owed a Mrs Hille \$3750, that he was owed \$2000 by a man named Faleke, that Faleke had a receipt from Fisch for \$800 of the amount, and that a pie-baking company in which Fisch had been interested was no longer in business.

BRUNO RICHARD HAUPTMANN [*resumed*]

MR WILENTZ:

Fisch lived in one room and had no automobile. It was not the truth that the witness took \$5500 from his "private bank account" to give to Fisch, but it was true that Fisch owed him the money.

MR WILENTZ:

*Q.* You wrote his brother that it was in the spring of 1933 that you undertook a small transaction and you induced him to do it. . . . Did you write to him one line about any business you had in 1932 with Fisch? *A.* No, it wasn't necessary.

*Q.* When was the first time he gave you any money for anything? When? *A.* In August or September 1932.

*Q.* But you didn't say anything about that in this letter, did you? *A.* If I should explain everything in a letter, I would have to write a book.

*Redirect examination by MR REILLY:*

The witness repeated that he worked at the Majestic Apartments on April 2, 1932, and reiterated that he had informed Police Commissioner O'Ryan that he had \$14,000 hidden in his garage before the police found the money. He said that Fisch had not told him the truth about the pie-baking business which had gone into bankruptcy, and that he had never told him about owing Mrs Hille "thousands of dollars."

## TWENTY-FIRST DAY

*Flemington, N. J., January 30, 1935.*

**B**RUNO RICHARD HAUPTMANN resumed the stand.

*Redirect examination by MR REILLY [continued]:*

The witness said he had been in constant communication with Fisch regarding the fur business, after Fisch arrived in Germany. He was unable to produce any of the letters, however, and attempted to establish the inference that the police had possession of them. While he was passing the "twelve or fifteen bills" that were part of the ransom money, he made no attempt to disguise himself and no attempt to hide his license plates. He had not used the "imperfect" plane [*in evidence*] since 1928, because he had two better, iron planes.

*Re-cross-examination by MR WILENTZ:*

The attorney general referred again to the payroll records of the Majestic Apartments.

*Q.* Now, is there anything on here that shows you worked on the second of April? *A.* Well, it shows two days that I figure the first and second.

*Q.* Now, is there anything on here that shows you worked the second of April? I know, but that's your testimony; but there is nothing on this record that shows it is the first and second or whether it is the first and fourth, is there? *A.* I don't know how they keep the record.

*Q.* All right. Now . . . will you tell us what the rate of pay is as shown on that page? *A.* A hundred-dollar rate.

The re-cross-examination concluded with the witness's statement that he responded to questioning about the board with Dr Condon's address and telephone numbers on it, in the Bronx, "without thinking" because his physical condition "was so bad this time I could hardly think."

ANNA HAUPTMANN

*Direct examination by MR REILLY:*

The witness, wife of the defendant, came to America on January 1, 1924, engaged in general housework, and met the defendant about three

months after her arrival. They were married on October 10, 1925. Her wages were \$50 and \$55 a month, while her husband's averaged around \$66 a week. They saved money, which was deposited in her name in the Central Savings Bank.

In 1929 the witness worked for Mrs Achenbach [*a witness for the State*] and in 1931, after her trip to California, she called on Mrs Achenbach. It was not true, she said, that she called on Mrs Achenbach in 1932. Mrs Achenbach still owed her money—"around \$30"—spent on Mrs Achenbach's child during a trip to Germany in 1928.

The witness began working for the Fredericksen bakery in June 1929, as counter girl and waitress. Her wages were \$18 a week and tips. She saved her money.

*Q.* And did your husband save his money? *A.* Yah.

*Q.* When did you next leave for Germany? *A.* In July 1932 I went back again.

*Q.* And how did you travel? *A.* Third class again.

*Q.* And the fare, how much was that, if you remember? *A.* The round trip it was, I believe, \$178.

*Q.* And on that trip did you and Hauptmann's mother go to see any attorney? *A.* Yes.

*Q.* Why did you go to see the attorney? *A.* My husband's mother was always longing for to see Richard and he could not come home; so we went to an attorney and asked him about it, and he told us that we had to wait a few more years or something like that until this expires. That was the reason why we went to see the man.<sup>1</sup>

*Q.* Now, when you worked in Fredericksen's, did Mrs Fredericksen have any particular day or night that she had to herself? *A.* Yes.

*Q.* What night was that? *A.* Tuesday and Friday.

*Q.* Now, was that a regular custom? *A.* Yes, from the first day I came there.

*Q.* What were your hours in Fredericksen's on Mondays? *A.* From seven to five.

*Q.* And what were your hours on Tuesdays? *A.* From seven to eight.

*Q.* Now Tuesday—or rather, March 1, 1932, was a Tuesday? *A.* Yes.

*Q.* And March 1, 1932, you were working for Fredericksen's, weren't you? *A.* I was.

*Q.* Did the Fredericksens own a police dog? *A.* Yes.

*Q.* Now, did they have in their restaurant a supper trade? *A.* Yes, we had.

*Q.* Now, on Tuesday, March 1, 1932, did your husband call for you that night? *A.* He did.

*Q.* At what time? *A.* Well, maybe it was seven o'clock, maybe quarter after seven, maybe quarter before seven. I don't know exactly the minutes.

<sup>1</sup>Hauptmann had denied there was any such purpose in his wife's trip.

Q. And how long did he remain there before you and he left to go home? *A.* He was there until we went home together.

Q. Yes, about what time, if you can recall? *A.* Oh, about half-past nine, quarter to ten.

Q. And you went right home, did you? *A.* We did.

Q. Was that your custom to go home? *A.* Oh yes.

Q. And after you arrived home did you remain there? *A.* Yes.

Q. Do you recall in March 1932 about when your husband went to work for the Majestic Apartments—if you can remember? *A.* Just the time? Do you mean the time in the morning?

Q. The time in the morning. *A.* Well, when he worked he drove me down to the place and he went right to work.

Q. Now, do you remember another date that has been spoken of here, April 2, 1932? *A.* Yes, I remember that.

Q. That was a Saturday night? *A.* Yes, it was.

Q. Do you remember who was in your house that night? *A.* Yes, I do. Hans Kloeppenburg was with us.

Q. And anybody else that you can remember? *A.* No, that night, only he.

Q. And what were you doing? *A.* Well, he came as a friend. My husband and Hans make music, play the mandolin and guitar; and after this, we played cards, all three of us.

Q. There is another date that has been spoken of here. Do you know your husband's birthday? *A.* I do.

Q. What date is it? *A.* Twenty-sixth of November.

Q. You would remember that, wouldn't you? *A.* Very well.

Q. Now, do you remember November 26, 1933? *A.* I do.

Q. Do you remember what night of the week that was? *A.* This was a Sunday.

Q. Who was in your house in the evening, late afternoon and evening of that date? *A.* It was Mrs Mueller, my niece, and Paul Vetterle.

Q. And yourself? *A.* And Isidor Fisch and my husband and myself.

Q. Was it a birthday party? *A.* Yes, Richard's birthday.

Q. That was in November 1933? *A.* That's right.

Q. Now, do you recall some time after you had moved into Rauch's house, a wagon loaded with wood breaking down in front of your house? *A.* Yes, I do.

Q. And did he sell some of that wood that was on the wagon to you or to Mrs Rauch? *A.* No, he didn't sell it; he wanted to sell it, but she wouldn't give him that much money as he asked for, so the driver was mad and he said, all right, let the wood lying there, and so he did.

Q. And was some of that wood used to build the garage? *A.* Yes, my husband put some on the side, on the empty lot, and used that for the floor in the garage.

Q. When was it, Mrs Hauptmann, that you first met Mrs Henkel? *A.*

It was in 1932 after I came back from Germany, I believe, in October.

Q. Where did you meet her? A. In her house.

Q. Where? A. On 149 East 127th Street.

Q. Who took you there to meet her? A. My husband.

Q. Had he met her while you were in Europe? A. Yes.

Q. You saw her many times after that? A. Oh yes; she came in my house often.

Q. Now, Mrs Hauptmann, from anything you saw or anything you heard in connection with Mrs Henkel and your husband, have you ever entertained the slightest suspicion concerning your husband's infidelity toward you? A. Mrs Henkel was not only a friend of my husband, she was my friend too.

Q. Did you ever entertain any thoughts or opinions that your husband was untrue to you? A. Never.

Q. Now, there has been talk here about Hunters Island. A. Yes, I heard so.

Q. Will you tell us the kind of a place Hunters Island was as far as your group was concerned? What did you do when you went there and how did the people act and how did they spend their time? A. Well, the place in Hunters Island where we went to, it was—there was water, trees and everything. We would go there on Sunday morning, sometimes during the week. We came there in the morning. We met all the others. Was just like one big family there.

Q. Were they mostly Germans? A. Yes, most of them; and almost everyone knowed—one knows the other there. We came there in the morning, we cooked coffee, the man made coffee, we had coffee there; we would play ball, we would play horseshoe; we had mandolins there to make music; we went bathing, we make some other games, played other games. That's what we done there.

Q. When, Mrs Hauptmann, did you first see and meet Isidor Fisch? A. I met him after I came back from Germany in 19—

Q. The first time or the second trip? A. The second trip, in 1932.

Q. And where did you meet him? A. I think I met him in Henkels' house.

Q. Did you afterwards learn that your husband and Fisch were in business? A. Oh yes.

Q. Did Fisch come to your house? A. Yes, quite often.

Q. Did he live in Henkels' house? A. He used to live in the same house.

Q. When was it that you first learned that Colonel Lindbergh's baby had been kidnaped? A. I read it on Wednesday morning; it was a Wednesday morning. A customer showed me a paper over the counter.

Q. Now, Mrs Hauptmann, do you remember a little gathering or party, farewell party to Fisch at your house? A. Yes, I do.

Q. And about how long before he sailed was that party given? A. This was the Saturday night, the Saturday before he left, about four days before he left for Germany.

Q. And who was at the party? A. There was Mr and Mrs Wollenburg, Mr Schuessler—

Q. From the house? A. Yes, from downstairs—and my brother Ernst.

Q. Ernst? A. Ernst, Hans Kloeppenburg and Mrs Mueller, my niece, and my husband and myself.

Q. Now, when Isidor Fisch came to that house that night, did he bring anything with him? A. I heard it.

Q. Did you see him bring any packages or bundles or anything with him? A. I wasn't there when he came up the stairs.

Q. Were you in the apartment when he came up the stairs? A. I was in the apartment.

Q. But in some other room, is that it? A. Yes, in the baby's room I was.

Q. Now, after he left that night, did you see any strange pieces of baggage around the house? A. Strange?

Q. That had been left? A. No, I didn't see.

Q. By him? A. I didn't see anything.

Q. When did you first see, if you ever did, the suitcases that Fisch left some clothing and underwear in? A. He brought some suitcases maybe a week before he left.

Q. Oh, he brought those before? A. He brought them up.

Q. Tell us about them. A. He asked me if he could bring his stuff to us and leave it there. It was things what he didn't want to take with him to Germany. So I said, sure he could bring it, we had room there, and he brought suitcases.

Q. How many? A. I remember one.

Q. Was it large? A. There was up in the apartment—this one he brought to the apartment, and there was some boxes, like cardboard boxes, about that size, with furs; he brought two, I don't know, a week before, or this he brought maybe a few weeks before; I don't remember that exactly. And he had a valise with books, he said filled with books in.

Q. These he had left in your apartment before this party? A. Yes.

Q. So that if he had anything at the party you didn't see him bring it, did you? A. No.

Q. Now you had a broom closet there, didn't you? A. Yes.

Q. And that is the closet that the attorney general offered a picture of in evidence. I am showing you now State's Exhibit S-264 and ask you if that is the closet, the broom closet? A. It is here. [Indicating.]

Q. Alongside of the sink? A. Yes.

Q. With your apron hanging on the top; is that it? A. Right.

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Q. How tall are you, Mrs Hauptmann? A. Five four, I believe.

Q. Now this top shelf indicated in Exhibit S-264, how high was that? A. I couldn't say exactly how high.

Q. Well, could you reach it? A. Well, I have to stand up and stretch myself.

Q. Did you know anything about any box, shoe box, cardboard box, on the top shelf of the broom closet? A. No, I never used that shelf.

Q. Now, I want you to tell the jury what you observed about that closet in connection with any water you may have found in there at any time and where in your opinion the water came from. A. This closet, in this closet there were three shelves on the right side. On the first shelf I had a box where I kept my shoe polish and brushes and things like this, an soap and powder, Lux or so on. On the second shelf, about that much higher, I had my ironing, electric iron, and bottles, with polish, all kinds of stuff, and rags, cloths, what I needed for cleaning. And there was the third shelf, which was the top shelf; on that top shelf I believe I put up some few bundles of shelf trimming, what I didn't use in that house. And the water came through, through that closet, through a pipe. When I opened the door, there is a pipe about that size, I don't know what for; and this goes through the ceiling, and the water came down, on the pipe and on the top of the ceiling, and I noticed a few times that even my mop that was hanging on the left side in the closet sometimes was very damp, wet, the water came through the closet, through the ceiling, and many a times the shelves were wet, and even down on the floor I had to put a pot and sometimes when we had very heavy rain there was water in it about that deep in the morning.

Q. Now, at one time did you have a plumber come in and look at it? A. Yes.

Q. And about when was it, if you can tell us, that you had this plumber come in and look at it? A. I told Mr Rauch once and he brought a man up, this man—I don't know who he is—and he said he would fix it, but then the water came in and in again, and then Mr Miller came; this is the plumber I know, and he was up and looked at the closet. We showed it to him, where the water came down and he said that he had to go—he needed a big ladder; he had to go outside, up on the house, on the roof. This was maybe in 1933 or '34, I don't remember when this was.

Q. Mrs Hauptmann, did you keep a record of all the money you have earned since you came to this country, while you were working? A. We put it down in a book.

Q. How much do you say you earned altogether? A. Do you mean since I am in this country?

Q. Yes. A. Well, I would say around \$7000, a little over \$7000.

Q. Did you save most of it? A. Oh yes.

Q. And your husband and yourself at different times, at one time, had a joint bank account? *A.* Yes.

Q. Were all the family funds put in that, your earnings, that you saved, put in that bank account? *A.* Not all.

Q. Well, your savings were put in there? *A.* Yes.

Q. You trusted your husband and he trusted you; is that right? *A.* Sure.

MR WILENTZ: I move the part about the husband trusting her be stricken. That is the part I object to.

MR REILLY: All right.

Q. You trusted your husband, didn't you? *A.* Who shouldn't trust a husband?

MR REILLY: I don't know. That speaks well for some of us. The witness is yours, General.

*Cross-examination by MR WILENTZ:*

Q. Mrs Hauptmann, you remember, of course, the furs and the other things that Mr Fisch left? *A.* Yes, I do.

Q. And I think you said there was a valise with clothing in it, some sort of clothing? *A.* Yes.

Q. And then there was a trunk or something with furs? *A.* Like a cardboard, this was not a trunk.

Q. A big cardboard box or something? *A.* Not so very big, about—

Q. Well, about— *A.* That long.

Q. About twenty or twenty-four inches long, would you say, or two feet long? *A.* I don't know how much two feet—about that size.

Q. Can we agree that is about two feet? Will you show it to us again so we can agree? *A.* Maybe it is like this. [Indicating with hand.]

Q. About twenty inches or twenty-four inches in length? *A.* Maybe that height, or a little higher.

Q. About a foot high. I see. And what was in those boxes or valises? *A.* There was small skins.

Q. Furs? *A.* Furs.

Q. And what else? *A.* That was all there was in it.

Q. Well, the other things he left? *A.* In the valise, you mean?

Q. Yes. *A.* There was underwear and a lamp, electric lamp.

Q. Yes ma'am. *A.* And some pictures.

Q. You mean pictures of himself and other people and things like that? *A.* Yes.

Q. Yes, and what else? *A.* I believe that is about all, a few little pieces of furs or skins, we found in that valise.

Q. Oh, he had personal belongings? *A.* Yes.

Q. Furs and clothing and pictures and papers and books and things like that? *A.* Not in that valise. There was books—

Q. Oh, I see. What was the next thing? I thought I included them all. *A.* There was books, another one only with books.

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Q. What was that, a valise or satchel? *A.* A satchel or a valise.

Q. How big was that about? *A.* Oh, not very big. I can't remember.

Q. A small satchel—you can't remember, you say. You worked very hard, didn't you, Mrs Hauptmann? *A.* I did.

Q. And until 1932 your husband worked very hard, too, didn't he? *A.* He worked.

Q. Yes, and saved money. *A.* He did.

Q. Yes. And I take it that you and your husband were quite happy? *A.* We were, very.

Q. And you put your money in the bank; the money that you saved as the result of your hard work, you put in the bank, didn't you? *A.* Yes, I did.

Q. And then finally your husband started to gamble in the stock market; is that right? *A.* Yes.

Q. And then he lost some money; is that so? *A.* I guess so.

Q. You think so. I am right up to about 1932. What did you do with the —what happened to the valises and all the things that Mr Fisch left? *A.* When do you mean—after, what happened after to them?

Q. Yes. When Mr Fisch died, and you got word and you went down to look at the valises and the trunks, or whatever it was he had. What happened to them? *A.* My husband went down to the garage and brought them up.

Q. Brought them up to the house? *A.* To the front room.

Q. And what happened to them? *A.* We opened them, looked it over, what was in it.

Q. Yes. And when you found out what was in it, what did you do with it? *A.* Took them downstairs again.

Q. Took them downstairs? *A.* To the garage.

Q. What did you do with the furs? *A.* They were still in the room, in the baby's—in the closet in the baby's room.

Q. Were the furs there when the police came? *A.* Oh yes.

Q. And the clothing, too, Fisch's clothing? *A.* Yes, I saw some laying down in the garage when I went down. When the police took me down to the garage I saw it laying there.

Q. You didn't see the other valise with the papers and the books, though, did you? *A.* This was down in the garage too. I don't know what was laying there. Everything was upset there.

Q. You didn't see the papers and the books, did you? *A.* What papers?

Q. When you came down to the garage, when the police came there; you didn't see the papers or the books when you came down to the garage when the police were there, did you? *A.* I don't know if they were laying there or not, but everything was upset in the garage.

Q. You didn't see any box or papers of Mr Fisch's then, did you? *A.* In the garage, you mean?

Q. Yes. *A.* I don't know what was laying around there.

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Q. I suppose you were quite excited, anyway? *A.* I was.

Q. You didn't expect them to find any money there, did you? *A.* No, I didn't.

Q. And when you were down there you still saw the furs there? *A.* No, there was no furs in the garage.

Q. Oh, the furs were in your house, but the other things, the clothing, you saw that there, didn't you? *A.* I saw this laying around on the floor.

Q. Now, this broom closet we talked about that you just showed to the jury, the height of it, that was a closet in which you kept—it was in the kitchen, wasn't it? *A.* Yes.

Q. And it was a closet to which you went every day, wasn't it? *A.* Yes.

Q. Every day you went to that closet, and you never saw any shoe box on the top shelf, did you? *A.* I don't know what was on the top shelf.

Q. You never saw a shoe box there, madam, did you? *A.* I didn't.

Q. No. From November 1933, or December 1933, the months and the day that Mr Fisch was last at your home, until September 1934, you never saw a strange shoe box on the top shelf of that closet, did you? *A.* I never had anything to do with the top shelf. I didn't use it for myself—for myself.

Q. We will come to that in a minute. But you never saw it, whether you had anything to do with it or not? *A.* I don't know what was there.

Q. No. The top shelf—take a look at this closet, please, which is S-264. Is that a correct picture of the closet? *A.* This is the closet here.

Q. That is the closet and the shelves are there? *A.* Yes.

Q. Does it show the correct position of the shelves at the closet in the kitchen? *A.* No, it doesn't. I don't know. That is not like this.

Q. What is it? *A.* There are little bottles up there. I didn't have bottles up there.

Q. Well, never mind the bottles. The position of the shelves and position of the cloths. *A.* Yes, the shelves.

Q. Are they just as they were in the house? *A.* I think so.

Q. Now, I want you to take a look at the apron there. *A.* Yes, I see them.

Q. And it is hanging on a nail, isn't it? *A.* No, it is not a nail.

Q. What is it? *A.* It is a hook.

Q. A hook? Will you look at it, please, madam? *A.* Yes, I see it.

Q. Is that where the hook was when you were living there? *A.* I believe so.

Q. You believe so, and you used to take your apron and hang it up there, didn't you? *A.* Yes.

Q. You didn't have any trouble doing that, did you? I mean it wasn't hard for you to hang up your apron on that hook, was it? *A.* Oh, I could hang it up.

Q. Just put it up easily. Now see if that hook isn't above the top shelf of the closet. *A.* I see that.

Q. It is, isn't it? So you had no trouble reaching above the top shelf of the closet to hang up your apron? *A.* I had no trouble reaching it.

Q. And you know if you stood a few feet away from it you could see everything on that top shelf? *A.* Why should I stay away a few feet and look up there?

Q. I know that, but if the closet door was open and you stood a few feet away from it, if you looked at it you could see everything on the top shelf? *A.* I didn't stay away a few feet; when I went to the closet I went over, opened the door and got whatever I needed from the closet.

Q. I don't want to argue with you, madam. I would like to have you answer the question. If you don't want to answer it, I will stop asking it. Will you please tell me if it is not a fact that if you stepped away from the closet a few feet, that, beginning a few feet away from the closet, that as you looked at it, if the door was open, you could see everything on the top shelf of that closet, couldn't you? *A.* I don't think so.

Q. You were the lady of the house and I take it that you did your own cleaning, Mrs Hauptmann? *A.* I did.

Q. And of course you cleaned the closet, too, once in a while? *A.* I do clean closets.

Q. How often did you clean this closet—once a month, once in six months? *A.* Those shelves—

Q. No, never mind the shelves, please, madam, the closet. How often would you clean this closet? *A.* Almost every week.

Q. Did you ever clean the shelves? *A.* I did.

Q. Did you ever clean the top shelf? *A.* I never use the shelf.

Q. Did you ever clean the top shelf? That is all I want to know. If you didn't, say so. *A.* No, I didn't.

Q. Never cleaned the top shelf? *A.* [Nods head.]

Q. You cleaned the first shelf, didn't you? *A.* I had to clean the first and the second because I had my stuff there.

Q. How many were there altogether? *A.* Three.

Q. Three shelves? *A.* Yes.

Q. So you cleaned the first shelf, and you cleaned the second shelf, but you never cleaned the top shelf? *A.* No, I didn't use it.

Q. You don't really mean that, do you, Mrs Hauptmann? *A.* No, I didn't use that.

Q. Well, whether you used it or not, you put something on before, you just told us—you used to keep something wrapped up. What was it you told Mr Reilly you kept up there? *A.* Shelf trimming.

Q. Shelf trimming. So you kept something up there? Of course, the electric iron and the soap and those things you kept on the lower

shelves because you wanted that more handy. *A.* Yes, I kept this down there.

*Q.* But this shelf trimming you did put on top there, didn't you? *A.* This was shelf trimming my niece gave to me and I couldn't use it in my house. That is why I put them up there.

*Q.* You didn't have much use for it? *A.* [No answer.]

*Q.* But you put it up there, anyway? *A.* Yes.

*Q.* Of course it wasn't dirty up there, was it? You didn't let dirt accumulate and dust, did you? *A.* What should I do up there? I put that stuff up there and I left it there.

*Q.* Well, you never cleaned the top shelf; is that what you mean? *A.* I never went up there.

*Q.* Please. You never cleaned that top shelf? *A.* I did not.

*Q.* Now, right alongside of that closet, the broom closet, to the left of the broom closet as you look at the picture, there is another closet where you kept food, isn't there? *A.* Yes.

*Q.* Did you keep groceries right in that closet, right next to the broom closet? You always kept groceries there, didn't you? *A.* No, there is a lot of empty boxes there, coffee boxes.

*Q.* Oh, there are empty coffee—well, did you keep foodstuffs, coffees and other things in that closet? *A.* Yes.

*Q.* The kitchen closet? *A.* Yes, I did.

*Q.* I will call one the kitchen closet and the other the broom closet. *A.* Yes.

*Q.* November and December 1933, and then January, February, March and right up until September 1934, you did keep groceries in there, didn't you? *A.* Yes, I had groceries.

*Q.* You never had to move the groceries out on account of that being wet, did you? *A.* No, there was no water in that closet.

*Q.* No water in there. In the broom closet itself, you told us about the things that you kept there, the soap and all these other things, and I take it that all those things you kept on the two bottom shelves? *A.* I did.

*Q.* But you did keep some things, didn't you, on the top shelf? *A.* There was some shelf trimming there.

*Q.* What is that? Shelf trimmings? *A.* The shelf trimmings were there.

*Q.* Now won't you just try for a minute, please, and see if you can't remember whether you kept something else on there besides the shelf trimmings. *A.* [No answer.]

*Q.* Well, maybe I can help refresh your recollection. You used to have a tin box up there, didn't you? *A.* Yes, a box I had up there.

*Q.* And in that tin box you used to keep coupons, didn't you? *A.* Yes, I did.

*Q.* You used to keep the coupons you got from soap? *A.* Yes.

Q. It was a sort of a tobacco box, wasn't it? A. It was a tobacco box, yes.

Q. And you kept that up on the top shelf, and every time you bought soap and you got coupons from the soap, you would save them, wouldn't you? A. I save them, yes.

Q. And you would save them in this tin box? A. I didn't go to that tin box; I put those coupons in my drawer in my kitchen table.

Q. Yes. A. Maybe every—when I had a lot of them, I cut them out with the scissors.

Q. Yes ma'am. A. And then I put them in the box.

Q. So that after you would save a certain number of coupons, then when you got the number together, a lot of them, then you would take them and put them up in the tin box? A. No, I'd get the box down.

Q. You would get the box down, put the coupons in and then you would put the box back? A. Yes.

Q. So you remember now, you did have a tin box up there. A. Yes, I had that box on the top shelf.

Q. Then when you went to take the tin box down, that would happen how often, about once a month, two months, three months? A. Once every three months, four months.

Q. And from November or December 1933, until September 1934, I suppose that you took that box down at least two or three times, didn't you? A. Maybe I did.

Q. Now, when you went to take that box down, that tin box down, you had to reach into that closet, didn't you? A. Yes.

Q. And into that top shelf? A. Yes.

Q. You didn't see any shoe box there, did you? A. Well, that—

Q. Please answer the question, madam. A. No, I didn't.

Q. You did not? A. I didn't look. I didn't know what's there.

Q. Now, you never took the soap out of there on account of the rain or water? A. What?

Q. You didn't take the soap out of there on account of the closet being wet? A. Sure I took the soap out.

Q. On account— A. When it was wet I took the things out and dried it. I had some oilcloth laying on those two shelves.

Q. And then you put it back again? A. And I just dried them and put it back.

Q. Put it back again in the same closet? A. Yes, in the same shelves.

Q. Even though nobody repaired it you put it back again? A. Where should I put it? That was the place for it.

Q. I don't know. I am not objecting to what you did; I just want to know what you did. A. I put them back in the same place.

Q. You didn't have the closet fixed, but you wiped off the things that were wet and put them back again? A. Yes.

Q. Yes ma'am. Now, you had rags and clothing in there, too, didn't you? A. In where?

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Q. In the closet—cloths? *A.* Cloths for cleaning.

Q. Did you use those cloths for cleaning? *A.* No, this was old stuff.

Q. Well, what did you have them for, for cleaning purposes? *A.* All these things was—I had old things what I didn't use.

Q. Yes ma'am. *A.* And I put up there, but I had a bag with rags—this I didn't have in that closet. Those are the rags I used for cleaning, those rags.

Q. I think you told Mr Reilly before that you had some rags or clothing in that closet. Now, were you mistaken about it, or did you? *A.* No, I am not.

Q. You did have some then? *A.* I did.

Q. Did you keep those on the first shelf, second shelf or third shelf? *A.* In the third shelf, on the top shelf.

Q. Top shelf. What did you put the rags there for? *A.* Oh, I throw them up there once.

Q. I thought you kept the rags there, the cleaning, the house rags that you used for cleaning in the house, and you would keep them right there in the broom closet where you kept the soap and powder and everything, so that in the morning when you went to clean house, you would go for the soap and you would take the wash rags and you would take the other things and clean around. *A.* No, not like that.

Q. Those rags were old rags that you didn't want? *A.* I didn't even know what kind of rags it was, but I know I once throw some up there.

Q. Of course, if you don't know, I don't know either, but whatever it was, you didn't use them, did you? *A.* No.

Q. Now, did you have curtain rods up on the third shelf? *A.* There was something laying up there.

Q. What, curtain rods? *A.* Long sticks or rods; what you call them?

Q. For the curtains? *A.* No, this was old ones. Mrs Fredericksen gave them to me once.

Q. Well, whether they were old ones or new, did you have some up there? *A.* There was some up there.

Q. So, in addition to the rags, there was a tin box, there were curtain rods, and I think there was something else; I think you said you put up there—oh yes, that was that little bundle, you said you bundled up. *A.* What bundle?

Q. Something from the window shades or something. *A.* Shelf trimming.

Q. So you had shelf trimming up there. You had old rags that you put up there. You had coupons, a tin box up there, and you had the rods. *A.* Yes.

Q. It was a pretty busy closet, a pretty busy shelf, wasn't it? *A.* This was put up there and was there.

Q. Do you remember anything else that was up there? *A.* I don't know.

Q. When you say it was wet; you mean it was just a little damp; isn't that what you mean? *A.* Wet, it was sometimes very wet.

Q. But as a rule, it was just a little damp; isn't that right? *A.* Damp or wet, it was wet, it was water there.

Q. Now these rods that we were talking about a moment ago, how were they lying or laying in the closet, how were they lying in the closet? *A.* I don't know that. I didn't put them up.

Q. Well, I know, but you saw this closet every day, madam, and you went up to this tin box and you see we have to find out from you, because you are the lady of the house, if you remember—if you don't remember and will say so, I won't annoy you with it again. Were they just sideways, flat on the shelf, or were they crosswise or how? *A.* I didn't know how they were there.

Q. You don't know. All right, madam. Now, when you came back from Germany and your husband stopped working, you objected to it, didn't you? *A.* He didn't stop working.

Q. Well— *A.* When do you mean? In 1932?

Q. When you saw that he wasn't working regularly any more, and you were living, I think, at Needham Avenue, then— *A.* No, not that time. When I came back from Germany in 1932—

Q. Yes. *A.* —we were living in 222nd Street.

Q. I see. But whenever it was, when you realized that he wasn't working any longer as a carpenter, except once in a long while, you were angry with him, weren't you? *A.* Angry?

Q. Well, you objected to it; you told him about it, didn't you? *A.* He was working when he had a job. He worked for himself then.

Q. Did you tell him when you realized he was spending all his time in the stock market—didn't you complain to him, "Richard, I don't like this; why do you stop your work as a carpenter"? *A.* No.

Q. Or something like that? *A.* No.

Q. You did not? *A.* I did not.

Q. Didn't you object to his speculation? *A.* I did say that I don't like that he is in the stock market. I did say that.

Q. And you objected when he tried to take that money out of your bank accounts to speculate in silver, too, didn't you? *A.* I remember that time.

Q. And you objected to it, didn't you? You said to him, "Why don't you take the money out of the stock account, not out of my savings?" Isn't that what you said? *A.* I said he shouldn't put any more money in the stock market.

Q. He wanted to speculate with silver, didn't he? *A.* I know he said something about buying silver.

Q. Twenty-five hundred dollars worth, wasn't it; something like that? *A.* I can't remember exactly how much.

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Q. And you objected to it, didn't you? *A.* I did.

Q. Now you remember, of course, Mrs Hauptmann, that you were a witness in the Bronx in these proceedings in which your husband opposed his return to New Jersey—you remember that, do you not? *A.* Yes, I do.

Q. Page 50, about the third or fourth question—I want to read to you a question that was directed to you in the Bronx and your answer as it is here, and ask you if you remember it. I will read some questions before it, so you will get the gist of it. Right at the top:

"Q. Now, when your husband was arrested recently, Inspector Bruckmann spoke to you about this case, did he not? *A.* Somebody spoke to me."

Do you remember that question and answer? *A.* Yes, I think I remember that.

Q. Well then, we get down to this question: "And did not you tell Inspector Bruckmann and others who were there present at the time that you had no recollection at all of what happened March first, and that it was too far back, that you don't know whether your husband was with you or not?" And didn't you answer, "I did tell him that"? *A.* [No answer.]

Q. Did you tell that to Inspector Bruckmann? *A.* Will you read that again for me, please? I don't understand it.

Q. "And did not you tell Inspector Bruckmann and others who were there present at the time that you had no recollection at all of what happened March first, and that it was too far back, that you don't know whether your husband was with you or not? *A.* I did tell him that." Did you tell Inspector Bruckmann that and did you so testify in the Bronx? *A.* I was asked—someone asked me if I remember that night of the kidnaping and I said I do.

Q. Yes ma'am. *A.* And then someone asked me about the first of March and I said I didn't know if this was the first of March; I couldn't remember that, and I said it was too far back; I couldn't remember the first of March.

Q. You didn't know at the time that March the first was the night of the kidnapping; is that what you mean? *A.* I didn't know it was the first of March.

Q. And so when they asked you about March first, you said, "That's too far back; I can't remember whether my husband was with me or not"? *A.* When they asked me about the first of March I believe I said that.

Q. Your husband used to travel to Hunters Island on Sundays, did he not? *A.* Yes.

Q. You didn't go with him, did you, Mrs Hauptmann? *A.* Sometimes I didn't. Years ago when I worked I was off only every second Sunday, so that Sundays when I worked I couldn't go with him.

Q. When did you stop working? *A.* December 1932.

Q. And you stopped working because your husband suggested it, didn't he? *A.* No, I think I worked long enough then.

Q. Yes, I think you did too. Did your husband suggest it or did you suggest it? *A.* I don't know who said I should. There was not much work to do, anyhow, any more in the place and it would be hard to get a job.

Regarding the water in the broom closet, the witness said that her landlord, Rauch, once sent a man to fix the leak, "in 1933 or 1934."

Q. Now, you didn't know, did you, that your husband had put money in this can and hid it in the garage, did you? *A.* I didn't, no.

Q. Whatever he did in that garage with reference to taking those pieces of board and putting money in them and hiding them, that was done without your knowledge, wasn't it? *A.* I didn't know anything about that.

Q. And when that money was found, it was a surprise to you, wasn't it? *A.* It was.

*Redirect examination by MR REILLY:*

The witness repeated that, standing on the floor, she could see only the edge of the top shelf in the broom closet. There was no doubt in her mind that the defendant was with her on the evening of March 1, 1932.

*[The defense introduced a United States weather report for the month of August 1934, to show heavy rains during the period when Hauptmann said he found water in the broom closet.]*

ELVERT CARLSTROM

*Direct examination by MR REILLY:*

The witness had previously lived in the Bronx and was acquainted with the Fredericksen bakery. March first was a significant date to him because it was his birthday. On March first, 1932, he was working in Dunellen, New Jersey, as caretaker of a house owned by one Christensen. He left Dunellen on that night at about six o'clock and went to New York, arriving at the Fredericksen bakery about 8:30 P.M. He had known Mrs Hauptmann as a waitress. He was in the bakery about twenty minutes.

Q. Now, while you were in there, did you see anybody else? *A.* Yes.

Q. Who? *A.* I saw that fellow sitting right down there.

Q. The defendant? *[The defendant stands up.]* *A.* That's right.

Q. And where was he, in the bakery? *A.* He was sitting at the front table, all the way in front there, when I saw him.

Q. Did you see a picture of the defendant in the newspaper after his arrest? *A.* Yes, I did.

Q. Did you associate that picture with the man you had seen in Fredricksen's restaurant March the first? *A.* Yes.

*Cross-examination by MR WILENTZ:*

The witness said there were four or five people in the restaurant while he was there. He could describe none of those other than Hauptmann. The reason he remembered the defendant was because "he was laughing at me in the bakery." He admitted having seen pictures of Hauptmann in the newspapers in September, October, November and December 1934, and that he did not recognize Hauptmann during those months as the man he had seen in the bakery. He lived with a family named Larsen for about five months in 1931.

Carlstrom said he had worked at the Majestic Apartments as a carpenter's helper in 1931, quitting on Christmas Eve. He denied having worked with Hauptmann.

Q. Did you see the picture of Mr Reilly with Mr Hauptmann when Hauptmann was arrested? *A.* Ja.

Q. You mean yes? *A.* Yes, that's right.<sup>2</sup>

The witness could not remember Larsen's first name. He said he lived alone in the house in Dunellen—a newly built, unfurnished house. He slept on a mattress.

Q. Did you ever visit the Larsens after you moved away from them? *A.* No, I didn't.<sup>3</sup>

Although he knew Mrs Hauptmann by sight, he did not know her first name and could not remember having seen her in the restaurant in the morning, when he occasionally visited the place.

Q. You saw Mrs Hauptmann there every night? *A.* Not every night.

Q. How many nights would you say a week: four or five nights a week, anyway? *A.* [After objections by defense] One week maybe four weeks, and another week maybe five weeks.

Q. You mean one week five nights and some weeks five nights? *A.* That's right.

Q. Now I've got it all balled up. Some weeks four nights and some weeks five nights, is that right? *A.* That is right.

Q. What time did you get in there? *A.* I came in there about half-past eight.

Q. They were both [Mr and Mrs Hauptmann] in there? *A.* Yes.

Q. Neither one of them left? *A.* No, no.

Q. You saw Hauptmann's picture before Christmas, 1934? *A.* Yah.

Q. With Mr Reilly? *A.* No.

<sup>2</sup>Since Mr Reilly was not Hauptmann's attorney at the time, the statement was obviously incorrect.

<sup>3</sup>References to the Larsens are significant in view of rebuttal testimony.

## TWENTY-SECOND DAY

*Flemington, N. J., January 31, 1935.*  
ELVERT CARLSTROM resumed the witness stand.

*Cross-examination by MR WILENTZ [continued]:*

*Q.* You lived in Dunellen in this house alone, you testified yesterday. Is that correct? *A.* Yes, I did.

The witness declined to answer questions as to his further movements after leaving the Fredericksen bakery, on the ground that he might be incriminated or degraded. He returned to Dunellen about nine o'clock on the morning of March second. He repeated that he occupied the Dunellen house alone and identified an account book of his employer, Christensen, concerning expenses for operating the house.

*Q.* Now the Mr Larsen you talked about yesterday, will you take a look over there? Stand up, please, Mr Larsen. [*A man stood up in the courtroom.*]

*Q.* Is this the Mr Larsen you talked about? *A.* Yes, Arthur Larsen.

*Q.* Now, Arthur Larsen worked with you at Dunellen, didn't he? *A.* Yes, he did.

*Q.* When he worked there, he stayed there? *A.* Yes, he did.

*Q.* He didn't go back to the Bronx each night, did he? *A.* No, he didn't.

*Q.* He stayed there and slept with you, didn't he? *A.* Yes.

*Q.* You never said a word about Larsen staying there in the house, did you? *A.* Because you never asked.

*Q.* You never said a word; "alone" you said, didn't you? *A.* [No answer.]

The witness said he could not remember about a messenger coming to Dunellen on the morning of March second to inform Larsen that his wife was ill and that Larsen then left the house, and insisted that even if Christensen's records showed Larsen was there on March first, he "wouldn't believe the records."

*Redirect examination by MR REILLY:*

The reason Hauptmann laughed at the witness was because the witness tried to say something to the waitress [*Anna Hauptmann*]. He used poor English. ". . . that is why I get mad."

*Re-cross-examination by MR WILENTZ:*

The only time he saw Hauptmann's face was when Hauptmann turned around and laughed at him.

## LOUIS KISS

*Direct examination by MR REILLY:*

The witness described himself as a "silk painter artist." He became interested in the Hauptmann case when he read something in a newspaper "about a dog", and it recalled to his mind an incident about which he communicated with counsel for the defense. On the night of March first, he was in Fredericksen's restaurant.

*Q.* Now, tell us how you came to be in Fredericksen's restaurant March 1, 1932. *A.* I supposed to take two pints whisky to a friend of mine in the Bronx.

The witness said he took the wrong subway train, and, finding himself in an unknown locality, he wandered until he saw the bakery-restaurant, which he entered to buy some coffee.

*Q.* Now, did anything happen in that place? *A.* I was almost finished mein coffee when the door opened; my back was to the door and the dog run in.

With the dog was a man, the witness stated, who said in German to the waitress that somebody wanted to take the dog away from him. The man, whom he first recognized by newspaper pictures, was Bruno Richard Hauptmann. Upon leaving the restaurant, the witness said, he went to the home of a friend, one Leo Singer, in the Bronx, to whom he delivered the whisky. He remained with Singer for an hour.

*Q.* So that the visit to the Bronx, as you have described it to us, the incident of the dog and man, and your hearing of the Lindbergh kidnaping after you arrived home, establishes in your mind March 1, 1932. Is that correct? *A.* Not only that, sir, but exactly one week before the Lindbergh kidnaping I took mein boy, who was seven years old that time, with a serious, grave condition, kidney trouble, to the Bellevue Hospital.

*Q.* And you recall it was a week after you took your boy to the hospital? *A.* Washington Day, February twenty-second, Washington Day.

*Cross-examination by MR WILENTZ:*

The witness recounted the various businesses and trades in which he had been engaged over a period of years. He was certain that his child had been taken to Bellevue Hospital on Washington's Birthday, February 22, 1932, "exactly one week" before the Lindbergh kidnaping. His attention was called to a calendar which showed [1932 being a leap year] that

the date one week after Washington's Birthday was not March first, but February twenty-ninth. He was questioned concerning his delivery of "two pints whisky" to his friend in the Bronx.

*Q.* What kind of whisky? *A.* My whisky.

*Q.* What kind? *A.* Rum. Rum.

*Q.* Where did you buy it? *A.* I made it.

*Q.* Did you manufacture rum at the time? *A.* No, I bought alcohol in Second Avenue or First Avenue, and I put in those flavor.

*Q.* How long did it take you to manufacture the rum? *A.* I made it in ten minutes.

*Q.* How much did you sell the rum for? *A.* Dollar and a quarter a pint.

*Redirect examination by MR REILLY:*

The witness said it was "around one o'clock in the morning" of February twenty-third that his child was taken to the hospital.<sup>1</sup>

### AUGUST VAN HENKE

*Direct examination by MR REILLY:*

The witness owned—and had lost—before March 1, 1932, a police dog. On the evening of March 1, 1932, he remembered being at a gasoline station on the Boston Post Road and seeing there a man with a dog. At first he thought the dog was the one he had lost. He identified the defendant as the man he saw. The defendant told him his name was Hauptmann and that the dog belonged to the baker.

*Q.* Now, why do you place this and how can you place this date as March 1, 1932? *A.* Well, I believe that was the day when everybody knows the Lindbergh baby was kidnaped.

*Q.* Did you hear of that any time during that night? *A.* I came home, you know; it was about nine o'clock; so I went, got my dinner; and then I went outside again. You know there was a lot of noise in the street, and people was talking and they said, "You know, Lindbergh's baby is kidnaped."

*Cross-examination by MR WILENTZ:*

*Q.* What is your name, sir? *A.* August Van Henke.

*Q.* Who is August Wunstorf? *A.* That is me.

*Q.* I thought you said your name was Van Henke? *A.* Yes.

The witness said he used the name Wunstorf upon occasion, because of "family trouble." He refused to admit that he had operated a speak-easy, but admitted that in his "restaurant" a bookmaker named Goodwin

<sup>1</sup>Hospital records showed the child was admitted in the early morning of February twenty-second.

had operated, and that his restaurant had been raided several times. He also owned a restaurant on Lenox Avenue, but denied operating a "bed house" where whites and blacks mingled.

*Q.* Let's see. Who is August Marhenke? *A.* August Marhenke through the war.

*Q.* That is your name? *A.* Yes sir.

*Q.* So it is August Marhenke? And August Van Henke? And August Wunstorf? *A.* All me, yes.

The witness said he reported the loss of his dog about four days before he met Hauptmann. He admitted he could not have read any story about Hauptmann's walking the dog at the time of the Bronx extradition proceedings, because Hauptmann said nothing about a dog in his story of the events of March first.

*Redirect examination by MR REILLY:*

The witness changed his name from Van Henke to Marhenke during the war because of "feeling against Germany."

*Re-cross-examination by MR WILENTZ:*

The witness applied to the New York Relief Bureau under the name of Marhenke.

### LOU HARDING

*Direct examination by MR REILLY:*

The witness was a laborer in Washington Road, at Princeton, New Jersey, on March 1, 1932. Early on that afternoon he saw an automobile containing two men, at the side of the road. ". . . was asking me to direct them to the Lindbergh estate and I told them and directed them to the best of my knowledge. . . ."

*Q.* Was either of those two men this defendant? *A.* No, it was not.

*Q.* Now, did you look in the car? *A.* Yes sir, I certainly did.

*Q.* And what did you see in the car? *A.* What I seen in the car was a ladder in the car . . . and a pasteboard box.

*Q.* Now will you describe the car, please? *A.* Yes sir; it was a kind of dark blue, suburban car.

In the early morning of March second the witness said he was taken to the Lindbergh estate by the police.

*Q.* And did you see the same ladder that you had seen in that car, anywhere around the estate? *A.* Well, yes sir, the same ladder.

*Q.* Look at the ladder that was offered in evidence and tell me if it is the same ladder you saw in the car. *A.* . . . Yes, something about like that.

*Cross-examination by MR WILENTZ:*

The witness said he had told his story to the state police "and to Colonel Lindbergh himself."

*Q.* Have you ever been convicted of a crime? *A.* Yeah.

*Q.* How many times? *A.* A couple of times—no, one time.

*Q.* Well, weren't you convicted the second time? *A.* I was convicted of assault and battery, yes.

The witness identified Sergeant Kelly, of the New Jersey State Police, as one of the officers to whom he talked on the Lindbergh estate.

*Q.* Don't you know, as a matter of fact, that Sergeant Kelly never spent one minute on the Lindbergh case? *A.* Well, I don't know who spent any minutes on it.

*Q.* Weren't you convicted of another crime of assault and battery on a woman? *A.* Yes, I was convicted of a crime, yes.

*Q.* An attack on a woman, wasn't it? *A.* No, I did not.

*Q.* Well, that is what you were convicted of. *A.* My lawyer told me to plead not guilty to it.

*Q.* To the charge of— *A.* Carnal abuse—wanted to know what it was.

The witness insisted he remembered seeing the ladder in the "blue suburban car", and that he talked to the men in the car four or five minutes. He looked at the ladder "just taking a glance, a slight glance."

*Q.* What I want to know is, could you see the ladder sufficiently to identify it and tell something about it, how it was built? *A.* No, I couldn't.

The witness repeated that he saw Colonel Lindbergh on the estate and that Colonel Lindbergh shook hands with him and thanked him for the information.

*Redirect examination by MR REILLY:*

*Q.* Was it the only ladder that you saw in a car on March first? *A.* Yes sir, it was.

*Q.* And were the men in that car the only people on March first that asked you to be directed to Colonel Lindbergh's estate? *A.* Yes sir, they were.

JOHN M. TRENDLEY

*Direct examination by MR WILENTZ:*

The witness qualified as a handwriting expert. Late in 1934 he had obtained photographic copies of the different writings that had been discussed during the trial and had given careful attention and study to the various exhibits.

## TWENTY-THIRD DAY

MR WILENTZ introduced a record from Bellevue Hospital which showed that the child of the witness Kiss entered the hospital at 1:30 A.M. on February twenty-second and not on the morning of February twenty-third, as asserted by the defense.

JOHN M. TRENDLEY [*resumed the stand*]

*Direct examination by MR REILLY [continued]:*

The witness saw the originals of the ransom notes for two hours and fifteen minutes, at Trenton.

*Q.* And as a result of your study and examination of the ransom notes and the Hauptmann request writings, are you in a position to render an opinion as to whether or not Hauptmann, the defendant, wrote the ransom notes? *A.* In my opinion he did not.

The witness pointed out that in the charts of the witness Osborn, none of the characters from the words "Dear Sir", in the nursery ransom note, appeared. In rendering his opinion he took those words into consideration. He also stated that the figures 50,000 did not appear on the Osborn charts. There were, in fact, no figures at all on the charts, nor was there any comparison between the word "bills" in the ransom notes and the same word in the request writings. Photography, he testified, could easily distort handwriting. Whoever wrote the *y's* in the ransom notes did so with two strokes, a downward and upward. The Hauptmann request writings showed the *y's* were made with four strokes, or at least three. He considered the word "were", intended for "where" significantly characteristic, but did not find the word on the Osborn charts.

*Q.* So then, is it not a fact that, beginning "Dear Sir", line 1, "Have \$50,000 ready", to . . . end of line 5, you cannot find on Mr Osborn's chart any symbol, letter or word taken from those five lines? *A.* I cannot.

*Q.* I now begin the second paragraph of the nursery note, the first word "we", and ask you whether or not that is indicated on Mr Osborn's charts. *A.* [Examines charts.] Let me see that.

Q. [Hands note to witness.] A. It is not.

Q. The next word is "warn"—w-a-r-n; is that indicated on Mr Osborn's charts? A. It is not.

The word "you" occurring in the seventh line of the nursery note was identical in form with the "you" on the fourth line, and yet it did not appear in the Osborn charts.

Q. From your examination of this nursery note would you say it was written by a person's free hand or a disguise? A. I think it was written by disguise.

Q. Part of it is written and part of it printed; is that correct? A. And I think he made the attempt with the left hand.

The writer of the first ransom note wrote the word "for" in two distinctly different ways, the witness testified.

Q. Mr Trendley, I am going to ask you whether or not it isn't a fact that the entire handwriting of whoever wrote this ransom note changes in form, effect and pressure, beginning with the line that starts "anyding." A. It does. That writer had great trouble writing that letter.

Of two *d*'s, one in the word "and", the other in the word "find", the witness said "it is a multifarious-looking *d*. I do not believe you will find a counterpart of it." This particular *d* did not appear on any of the Osborn charts. Although the word "is" of the ransom note might have been visually similar to that of Hauptmann's writings as shown on the Osborn charts, the witness asserted that the pen pressure used in writing the word in the ransom notes was entirely different from that habitually used by the defendant. The words "gut", "anyding", "public" and "money" were written distinctively in the ransom notes and "should have impressed" the other experts. The witness called attention to the proper spelling of such words as "notify", "offer" and "information."

Q. Am I correct in saying that in the first ten lines of the nursery note the only symbol of word photographed by Mr Osborn from which he makes his comparisons and his opinion is the word *i-s*? A. *I-s* is the only word.

Q. So, taking the whole ransom note from top to bottom, we find that Mr Osborn, testifying for forty years all over the country, with samples of the defendant's handwriting before him, and with this note, this first nursery note as a comparative test upon which he makes his observations and opinion to the jury, picks out the word *i-s*, "is", and compares it with the *i-s*'s of Hauptmann's—is that correct? A. It is.

Q. Picks out the word "singnature" and compares it with nothing on the chart from Hauptmann's writing. A. That is correct.

Q. In your opinion would that be sufficient to send a man to the electric chair?

MR LANIGAN: That is objected to.

THE COURT: The objection is sustained.

The witness said there was a difference between the *x's* of the ransom notes and those in the conceded writings, and that many natives of Teutonic countries made *x's* in similar fashion. He testified that the custom of hyphenating words such as "New-York" was not unusual and said he had examined at least a hundred such hyphenations in recent days.

*Cross-examination by MR LANIGAN:*

The witness offered his services to the defense after seeing some reproductions of the ransom notes in the daily press. His opinion was based on an examination of the original documents for two hours and a half, together with the books prepared by the prosecution. It was difficult to study the original notes because several experts were examining them and they were passed from hand to hand. The witness inferred that the State had hampered this examination.

Q. Now you examined fifty documents in two hours and a half? A.

No, I told you we just looked them over casually; they were shuffling them up and passing them around.

Q. Now, you say that in cases in which you make photographs, cases of major importance, do you photograph every letter, every word? A. Sometimes.

Q. Every word and every letter? A. We did that in the Thomasson case. We just photographed every exhibit.

Q. The Thomasson case in which you reversed your opinion? A. Oh yes, that has been done for three years.

Q. Yes. Now even though you may photograph every word and every letter, isn't it customary to produce only part of your charts or part of your letters? A. Well, I don't know. I shouldn't think you would do that. We didn't do it.

The witness disregarded the misspellings in the ransom notes and the request writings because the Hauptmann writing was made "under the police" and he "wouldn't take anything written in a police station." He repeated that he could see no similarity between the *x's* of the ransom notes and those in the request and conceded writings. One of the *x's*, he was sure, had been "patched" and "worked over."

Q. If somebody was imitating Hauptmann's handwriting, wouldn't he have to be familiar with his misspelling? A. . . . I thought he might have been told to spell them that way. He writes "the"—

Q. Wouldn't he have to be thoroughly familiar with his grammar? A. Yes. I noticed there were some mistakes.

The witness examined writings of Isidor Fisch and Henry Uhlig, but there were insufficient examples upon which to arrive at any conclusion.

*Redirect examination by MR REILLY:*

The witness said there was a different "line quality" in the Hauptmann writings and the ransom notes. In the Hauptmann writing all the shading was "graduated, uniform, with its downstrokes, with its clean pen movements, no roughness", as contrasted to the strokes in the ransom notes.

PETER H. SOMMER

*Direct examination by MR REILLY:*

The witness, a "fingerprint expert", testified that about midnight, March 1, 1932, he was riding on the Weehawken ferry, from New Jersey to Forty-second Street, Manhattan. On the ferry he saw two men, one of whom resembled a photograph [*Defendant's Exhibit D-5, a photograph of Isidor Fisch*]. On the Manhattan side the men assisted "a lady with a baby" on a trolley car.

*Q.* I show you Defendant's Exhibit D-7 [*photograph of Violet Sharpe*] for identification and ask you if you recognize the woman that was seated in the trolley car holding the baby? *A.* I would say that resembles the woman very strongly.

*Q.* Now describe her actions in the trolley car with the baby. *A.* Why, she was holding the baby, and from the time she got on the trolley car she appeared very nervous. . . .

*Q.* Describe the baby to the jury. *A.* This baby she had wrapped in a blanket and she would lift the baby up; this blanket slipped and I noticed the baby was dressed in a one-piece nighty. . . . The baby was a blond. . . . I would say about two years old.

The witness said he reported the incident to the police the following day, when he learned the Lindbergh child had been kidnaped.

*Cross-examination by MR WILENTZ:*

The witness had made no attempt to tell his story again until about two weeks before his appearance in Flemington.

*Q.* Now, the man that you saw in the ferryboat, you didn't see him on the trolley car? *A.* No sir.

*Q.* What about the short man you saw on the trolley car? *A.* I didn't see him when I arrived in New York. . . . I don't know what became of him.

*Q.* So that the short man didn't assist her [*the woman*] did he? *A.* The picture that I identified, yes.

Q. Well, the short man you didn't see on the trolley car. *A.* [Witness starts to answer.]

Q. Just a minute, now. *A.* Please don't puzzle me up.

Q. Now, just answer the question. The short man that you saw on the ferryboat, you didn't see on the trolley car; is that correct? *A.* Positive, that is correct.

Q. Now, the tall man that you say helped the woman—did you see him on the trolley car? *A.* He was on the trolley car.

Q. Did you see him on the boat? *A.* I saw him on the boat.

Q. Not with the short man? *A.* Not with that short man.

The witness said he had seen two short men, the first of whom disappeared before he went aboard the ferry. The second "short man" seemed to have "connected up" with the "tall man" on the ferry. The attorney general called his attention to the fact that he had testified to seeing the tall and short man first on the trolley car and later on the ferry. The witness said the attorney general was "mixing him up." The tall and short man, he testified, appeared to have met the woman with the child near the ferryhouse on the Manhattan side—he did not know just where—but the first time he saw the woman was on the trolley car. He changed his testimony at this point to say that he saw the men assist the woman to the platform of the trolley car, after which he saw them go to an automobile near by. He didn't see them get into the automobile. The witness wouldn't say yes and he wouldn't say no when he was asked whether the men resembled photographs presented to him by the cross-examiner [*other photographs of Isidor Fisch*] and repeated his hesitancy in regard to photographs of Violet Sharpe.

## TWENTY-FOURTH DAY

*Flemington, N. J., February 4, 1935.*

**T**HE COURT: I very much regret to be informed that there have been taken in this courtroom some movie and talking pictures of the trial and, of course, it is well understood that that was done in defiance of the orders of the Court. . . . All such instrumentalities are to be excluded from the courtroom. . . . The agents and employees of these companies that are producing these pictures in violation of the orders of the Court will be excluded from the courtroom.

PETER H. SOMMER [*resumed*]

*Cross-examination by MR WILENTZ [continued]:*

*Q.* You are a professional witness, aren't you, Mr Sommer? *A.* Well, I don't qualify as a professional witness.

*Q.* Do you not testify in court for a price? *A.* Why, I haven't spoken about any price.

The witness said he had testified in a case involving the Brooklyn Railroad Company, and in the Hall-Mills murder case. He recalled testifying in the case of Adeline Smith vs. The Peerless Glass Company and the Mink Brothers, but denied he testified falsely. He said he had made an error and corrected it later by affidavit.

*Q.* But isn't it a fact that you only had it corrected because you weren't paid the money? *A.* No sir.

*Q.* Isn't it a fact that you then threatened to go to the district attorney and tell him about it? *A.* I said I would go to the district attorney and tell, because this fellow wanted me to lie in court.

*Q.* And when he paid you \$15, you didn't go to the district attorney; isn't that right? *A.* Why, I was going to—the case was . . . coming up again.

*Q.* Yes, and then he paid you the \$15, didn't he? *A.* That was my expenses.

*Q.* But you did threaten to go to the district attorney if he didn't pay you? *A.* I did, yes.

*Redirect examination by MR REILLY:*

The witness said he had told the truth regarding the incident he asserted occurred on the night of March 1, 1932.

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## *Re-cross-examination by MR WILENTZ:*

The witness was shown further photographs of Violet Sharpe. He refused again to say yes or no as to whether she was the woman he saw with the baby.

## SEBASTIAN BENJAMIN LUPICA

## *Direct examination by MR FISHER:*

The witness was a student at Princeton Preparatory School in March 1932 and lived with his parents in Hopewell. He was under subpoena by the State, but had not been called to testify.

“ . . . On the late afternoon of March first I was returning from Princeton Preparatory . . . and I stopped at my letter box, which is at Colonel Lindbergh’s gate house. I had my mail and I was interested in reading my mail, so I stopped in the road to read it. . . . I looked up and I noticed a car come around the bend, but before I could get into motion, this car pulls on the wrong side of the road and he parks on an incline, which is an entrance to a corn field. . . . Well, he stayed there, and I figured maybe he wanted me to pass him, so I started to go on up the road, and I passed him on his right.”

*Q.* What did you see [*in the automobile*]? *A.* I saw two sections of a ladder . . . extended from the windshield onto the rear glass, lying across the front seat.

*Q.* Will you describe to me the man you saw in the car? *A.* The man I saw in the car had a dark coat on, black, dark fedora hat; was from thirty-five to forty years old; and he had thin features.

*Q.* Now, did you ever see the ladder that you saw in that car, at a later date? *A.* Yes, I saw that ladder again, that is, two sections of it, the following evening about seven o’clock.

The witness said he told his story the following morning to a friend, one Nelson Wyckoff, before he knew the Lindbergh baby had been kidnaped. He was called to the Lindbergh estate after he reached home from Princeton in the late afternoon of March second. He believed the automobile was a 1929 Dodge sedan. The color was dark blue or black, and the car had a New Jersey license.

*Q.* Have you at any time said to anybody that you can definitely recognize the defendant, Hauptmann, as the man you saw in that car? *A.* No.

*Q.* Can you identify Bruno Richard Hauptmann as the man you saw in the car that night? *A.* I cannot.

## *Cross-examination by MR WILENTZ:*

There was only one man—not a gang—in the car he saw. The car was a “dark” Dodge. The witness was shown a newspaper clipping in

which he was represented as saying that "Bruno Richard Hauptmann is the same man that I saw at the foot of the lane leading to the Lindbergh home only a few hours before poor little Baby Lindbergh was killed and murdered. . . . He was driving a black Dodge sedan, had a ladder inside the car." He admitted he had told the police he could not identify Hauptmann with absolutely certainty.

*Q.* And you said . . . did you not, to the attorney general, in the presence of Prosecutor Hauck and five or six other people, that the man you saw in the courtroom in the Bronx, Hauptmann, that the man you saw on the night of March the first resembled Mr Hauptmann? *A.* That Mr Hauptmann had a resemblance to him.

*Q.* And you have always said that he resembled Hauptmann, haven't you? *A.* Yes, it is the truth.

*Q.* And you say so today, don't you, Ben? *A.* Yes.

*Q.* You told everybody in the world that the man you saw on March first in an automobile with a ladder in it looked like Hauptmann; isn't that right? *A.* He has a resemblance, yes.

*Q.* And you came before the Hunterdon County grand jury and you so testified? *A.* Yes.

*Q.* And that is your testimony today? *A.* Yes.

*Redirect examination by MR FISHER:*

The witness said he made no positive identification of the defendant as the man he saw in the car on March 1, 1932.

HANS KLOEPPENBURG

*Direct examination by MR REILLY:*

The witness had known Hauptmann, the defendant, since the winter of 1929. He recalled being at the Hauptmann home on the night of April 2, 1932, it being a custom to gather for an evening of music on the first Saturday of each month. . . . "I came up to his house about seven o'clock, maybe a little before, maybe half-past six; I don't know, exactly. Then we played some music, played cards, had some coffee and cake, and between eleven and twelve o'clock he drove me up to the White Plains Avenue subway." He recalled seeing only Hauptmann and his wife on that evening. He had seen Fisch at the Hauptmann home many times and remembered a party given for Fisch at the Hauptmanns'. He first met Fisch in July or August 1932, at Hunters Island.

At the farewell party to Fisch, in December 1933, there were present a Mrs Mueller, Mr and Mrs Hauptmann, a Mr Schuessler, and a young couple named Hein, "or something like that." Mr and Mrs Otto Wollenburg were also there. Isidor Fisch came in about six o'clock and talked at once with Mr Hauptmann.

Q. Did you notice whether or not he had any packages or bundles with him? *A.* Yes, he carried a package in his arm. . . . It was about, I would say, five to six inches high, and seven, eight wide, and the length was about fourteen inches.

Q. And when was the last time you saw Fisch with that package in Hauptmann's house? *A.* The last time both went together through the hall in the kitchen.

When Fisch joined the others of the group, he no longer had the package with him.

*Cross-examination by MR WILENTZ:*

The witness said he had long been a friend of the Hauptmanns, and that he was the man who took a trip to California with them. He knew nothing of Hauptmann's life in Germany. He met Fisch at Hunters Island, but couldn't say whether that was the same day Hauptmann first met Fisch.

Q. Well, Hauptmann didn't say anything about meeting him before, did he? *A.* Well, I don't remember.

The witness did not remember seeing Fisch leave the Hauptmann home on the night of the farewell party, and therefore could not say whether Fisch took the package away with him. He admitted telling the Bronx district attorney, shortly after Hauptmann was arrested, that he could not remember when he saw Hauptmann in March or April 1932, because "that is too long ago."

*Redirect examination by MR REILLY:*

The witness gave three reasons for remembering the date, April 2, 1932. First, there was some sort of April Fool joke. Second, it was customary to meet on the first Saturday of each month. Third, Mrs Hauptmann spoke of wanting to go and see her niece the following day.

*Re-cross-examination by MR WILENTZ:*

The witness talked with Detective Sergeant Wallace, of the New York City police, shortly before Christmas, 1934, and at that time said he could not recall any dates upon which he saw Hauptmann in March or April 1932. He admitted there were no "music evenings" in January 1932, but said the custom was resumed the following month.

MRS ANNA BONESTEEL

*Direct examination by MR REILLY:*

The witness operated a restaurant at 71 Alexander Street, Yonkers, near the ferry to Alpine, New Jersey. She identified a photograph shown to her as being that of Violet Sharpe, whom she said she had met two or three months before the Lindbergh kidnaping.

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Q. On March first, did you see her? *A.* Yes sir. . . . She came into our restaurant . . . about half-past seven. . . . She stayed until about half-past eight, a quarter to nine.

Q. Did you talk to her? *A.* She asked me what time it was and I said, "There's the watch," and with that she turned around and spoke no more to me.

Q. Now, what was she doing in your restaurant? *A.* She came in; she had a gray blanket on her arm; she was very nervous; she says: "I am waiting for someone." She kept looking out and opening the door and I kept watching her and several times I said, "Gee, she looks like a hen on a hot griddle. Why don't she stop that?"  
[*The witness's observation was stricken from the record.*]

Q. And when she left, what did she do, and in what direction did she go? *A.* She left when she saw a car come down; she put her hand up to it, and the car stopped about two hundred feet away from the restaurant—she run up to the car, she got into it, and the car drove away.

### *Cross-examination by MR WILENTZ:*

The ferry from Yonkers to Alpine was not the same ferry that ran to Weehawken [*the latter being the ferry described by the witness Sommer*]. She saw no baby with the woman she identified as Violet Sharpe. She remembered that Miss Sharpe had been introduced to her several months before the kidnaping, but could not remember the woman who introduced her. When shown another picture of Violet Sharpe, she insisted that the subject of the photograph did not look like Violet Sharpe. Later she contradicted this statement and said it was Miss Sharpe. She repeated her statement that the woman who came into her restaurant was carrying a gray blanket. The woman left her restaurant at about half-past eight or a quarter before nine o'clock. Even though it were shown to her that Miss Sharpe never left the Morrow home until eighty-thirty o'clock on the evening of March first, she would not say she was mistaken.

## JOSEPH DUTT

### *Direct examination by MR REILLY:*

The witness testified he accompanied Peter H. Sommer to the 81st Precinct police station in Brooklyn, on March 2, 1932, where Sommer reported what he had seen on the Weehawken ferry to the police.

### *Cross-examination by MR WILENTZ:*

Sommer was the witness's father "by sort of adoption, not legally." He did not remember the name of the officer to whom Sommer told his story.

CARL HERMAN JOERG

*Direct examination by MR REILLY:*

The witness corroborated Sommer's visit to the police station on the morning of March 2, 1932, he having accompanied Sommer. He heard "snatches of the story" as Sommer told it to the police.

*Cross-examination by MR WILENTZ:*

Q. Did he say anything about Violet Sharpe that night? A. No sir.

*Redirect examination by MR REILLY:*

Q. Did he say anything about a woman that he had seen? A. Yes. He mentioned that he had seen a woman on the trolley car. She carried a baby that resembled the Lindbergh child.

PAUL VETTERLE

*Direct examination by MR REILLY:*

The witness had gone to school with Mrs Hauptmann in Germany. He remembered being at a birthday party for Hauptmann at his home, on November 26, 1933, and named as other guests Mrs Mueller and Mr Fisch. He arrived at the Hauptmanns' about three o'clock or three-thirty in the afternoon. Hauptmann came home about an hour later. He had working clothes on. The witness, Fisch and Mrs Mueller left together, about ten o'clock in the evening. The evening was spent in conversation and with radio music, and there were refreshments of coffee and cake. Hauptmann drove the witness to the station.

*Cross-examination by MR WILENTZ:*

Q. As a matter of fact, Mrs Mueller and you all left about six o'clock, didn't you? A. Left where?

Q. The Hauptmann home. A. . . . ten o'clock.

Q. Are you sure Fisch was there? A. Yes, I am sure.

Q. No question about that? A. No question about it.

THOMAS H. SISK [recalled]

*Cross-examination by MR REILLY:*

The witness produced a report to the United States Department of Justice dealing with the footprint, a cast of which was made under the direction of Dr John F. Condon, in St Raymond's Cemetery.

Q. And how many days after the payment of the ransom money did Mr Condon tell you he found the footprint on the grave? A. As I recollect, he stated it was two or three days after the payment of the money.

Dr Condon had told the witness a police officer was present when the cast was made, but he did not remember the officer's name. The witness had not talked with Dr Condon until a year and a half after the crime.

*[Under redirect examination, the witness said he had learned that Ralph Hacker, Dr Condon's son-in-law, was the man who actually made the cast of the footprint.]*

### RUSSELL A. SNOOK

*Direct examination by MR FISHER:*

Captain Snook was supervisor of the Bureau of Identification of the New Jersey State Police in March 1932. Photographs and fingerprints were under his control. His chief assistant was Lieutenant Sjostrom. He could not recall ever having had any communication with Dr Erastus Hudson regarding fingerprints on the kidnap ladder. No independent fingerprint experts were called in on the case, that is, outside of Captain Snook's own department.

Q. Well, after Doctor Hudson had come down there, on the thirteenth or fourteenth of March, you did get information from your subordinates that there were then apparent on the ladder prints that were readable, didn't you? A. Not definite information that there were prints that were readable; that there were a great many smudges and marks on the ladder, which was only evidence of the fact that a number of people had, during that time, handled it.

*Cross-examination by MR WILENTZ:*

Q. Between the first day of March 1932 and the day that Doctor Hudson came, that ladder had been handled by a great number of people, hadn't it? A. Yes, it had.

Q. So that during that period a great number of fingers and a great number of hands had handled it? A. To such an extent that the examination would hardly be considered of any value from an identification standpoint.

In a short redirect examination by Mr Fisher, the witness said it was not a fact that all but twenty or thirty of the prints on the ladder had been identified.

### H. NORMAN SCHWARZKOPF *[recalled]*

*Direct examination by MR FISHER:*

The witness, commanding officer of the New Jersey State Police, said that a duplicate of the kidnap ladder had been made for experimental purposes, the investigators using two sections of the ladder for their tests against the wall of the Lindbergh house. The ladder was not photo-

graphed, "inch by inch", for fingerprints. Various police officers were sent up and down the ladder "to see at approximately what weights the ladder would hold the men."

Q. And at what weight did the similar ladder, the duplicate ladder, break? A. Approximately a hundred and eighty pounds.

Q. Do you know how much the Lindbergh baby weighed at the time of its kidnaping? A. About thirty pounds . . . so that a man up to a hundred and seventy or possibly a hundred and seventy-five pounds could have gone up, but with the added weight it would have broken when he came down.

The witness testified that the duplicate ladder broke at the same place that the break occurred in the original ladder. He denied that any piece of wood resembling a dowel pin had been found in the Lindbergh home after the kidnaping.

Q. What information came to you during the first ten days of March as to the ladder? A. A very great deal of information of a very conflicting sort. There were a number of people who reported various opinions they had as to the ladder and most of these opinions were conflicting. It was for that reason that we referred our investigation to the Federal Department, took it to the Department of Forestry, who subsequently turned it over to Mr Kochler.

Q. Now, is it a fact that Trooper Kelly didn't bring back from the kidnap room a single readable fingerprint? A. There were a number of smudges and the lines and marks in them were such that they would not be of any value for identification purposes.

Q. At no time was the fingerprint of Bruno Richard Hauptmann identified as being on that ladder? A. Not that I have any knowledge of.

Q. When did Murray Rosner first appear on the scene of the kidnaping? MR WILENTZ: I object to that as not being material, if your honor please.

MR FISHER: It is highly material. . . . My idea is that I want to show that the original ransom insignia was in the possession of a man who had connections with the underworld, very early in the case.

[*The witness was permitted to answer.*] A. I don't recall the date, Mr Fisher. . . . To the best of my recollection it was five or six days after the kidnaping.

Q. Now, did you display to Murray Rosner the original ransom note? A. I did not.

Q. Did he ever see it? A. I don't know.

The witness said that from time to time he issued bulletins to the press, dealing with progress in the case. He denied that he ever stated in these press releases that he had definite information connecting one Harry

Fleischer with the crime, and could not recall having issued a statement to the effect that Violet Sharpe's suicide virtually solved the kidnaping. He admitted finding an automobile hidden under a haystack, but could not recall all the details of the car.

*Cross-examination by MR WILENTZ:*

*Q.* Colonel, every car that you found and every clue that you found until the day of Mr Hauptmann's arrest was carefully investigated to the best of your ability and the ability of the other agencies, were they not? *A.* Yes sir.

*Q.* And every one of these clues was eliminated by information that came, isn't that so? *A.* Yes sir.

*Q.* And of course there was no criminal record on file in the United States of America of Hauptmann, was there? *A.* No sir.

The witness repeated that the duplicate ladder broke when a man weighing a hundred and eighty pounds stepped on it.

## TWENTY-FIFTH DAY

*Flemington, N. J., February 5, 1935.*  
**A**RGUMENT WAS HAD, between Mr Lanigan for the State and Mr Fisher for the defense, over the materiality of certain releases issued by Colonel H. Norman Schwarzkopf to the press, relating to the suicide of Violet Sharpe. The defense demanded fulfillment of a subpoena duces tecum, served on Colonel Schwarzkopf. The Court held that Mr Fisher would be obliged to show more materiality and, treating the subpoena as a motion, denied the defense request.

### PHILLIP MOSES

*Direct examination by MR REILLY:*

The witness, a taxicab driver, said he was in St Raymond's Cemetery on the night of April 2, 1932. He met three men there, who seemed to have a stalled car, "a brand-new green car." The witness drove them out of the cemetery, and on Scribner Avenue they "got in a huddle and got into a gray car." The incident occurred a little while after eight o'clock in the evening.

*Cross-examination by MR WILENTZ:*

The witness said he had been a newsstand proprietor, a Wall Street runner, a plumber's helper, a farmer, an amateur actor and an amateur dancer. He could impersonate Will Rogers. He was not acquainted with many features of St Raymond's Cemetery, such as the hedge around certain parts of it, and some of the lanes in it.

### MARIA MUELLER

*Direct examination by MR REILLY:*

A niece of Mrs Hauptmann, the witness remembered being in her aunt's home on November 26, 1933; she arrived in the afternoon, followed by Paul Vetterle, Bruno Richard Hauptmann and Isidor Fisch.

**Q.** How long did you stay there, Mrs Mueller? **A.** Well, I guess it was till about nine-thirty or ten o'clock.

**Q.** And during the hours, ten o'clock, the time when you went out of the house, and four o'clock, when the defendant Hauptmann came in, did he leave the house at all? **A.** No, he didn't leave the house.

The witness also remembered a farewell party to Isidor Fisch, "on December 2, 1933", which was attended by Mr and Mrs Wollenburg, Mr Schuessler, Mr and Mrs Kloeppenburg and herself. Fisch arrived, she said, about seven-thirty or eight o'clock.

*Cross-examination by MR WILENTZ:*

The witness explained previous statements to the police, made directly after Hauptmann's arrest, to the effect that there was no birthday party for Hauptmann on November 26, 1933, by the declaration that she didn't consider the gathering on that occasion a "party." The attorney general read her questions and answers from the earlier action.

*Q.* And you were asked: "Did you have a party up there that Sunday?"  
And your answer was: "No." Right? *A.* Yes.

*Q.* And then you were asked: "Was there anybody up there?" And your answer was: "No." *A.* Yes, but I told Captain Apple in Bronx right after I came out, after Mr Breslin had first examined me, I said to Captain Apple, "I was just thinking it over, it just comes in my mind that Isidor Fisch and Paul Vetterle," I told Captain Apple—

*Q.* And then you were asked later again: "Was anybody else there that day?" And your answer was "No." Do you remember that?  
*A.* I don't remember.

The witness did not remember that she had said she had no definite recollection of when she left the Hauptmann home on the date in question.

*Redirect examination by MR REILLY:*

The witness repeated that she had told Captain Apple of the Bronx about the birthday gathering.

*Re-cross-examination by MR WILENTZ:*

Her husband would not know what time she arrived from the Hauptmann gathering on November 26, 1933, because he was working nights and didn't get home himself until morning.

### LOUISE WOLLENBURG

*Direct examination by MR REILLY:*

Mrs Wollenburg, a friend of the Hauptmanns', had met Isidor Fisch three or four times, on two occasions in a stockbrokerage office with Hauptmann. She attended the farewell party to Fisch on December 2, 1933. She enumerated the guests and said that . . . "Fisch was the last one who came." She did not see him enter the house, however. She and her husband remained at the Hauptmann house overnight.

*Cross-examination by MR WILENTZ:*

The entire group was in the parlor when Fisch arrived.

Q. And Kloeppenburg? *A.* Yes.

Q. And how about Schuessler? *A.* I don't know about Schuessler.

Q. And Kloeppenburg? *A.* I don't know if he was in there or if he was in the kitchen; that I can't recall.

Q. So, a moment ago, when you said Kloeppenburg was in the parlor and Mrs Mueller was in the parlor and all those people were in the parlor, you were mistaken? *A.* I couldn't remember any more who was in the parlor when Fisch arrived; I know I and my husband was in there, see?

## OTTO WOLLENBURG

*Direct examination by MR REILLY:*

He had known Hauptmann five or six years and had met Fisch several times at Hauptmann's home. He didn't arrive at the "party" on December second until about ten o'clock in the evening. He recalled that Fisch left the house "early in the morning."

*Cross-examination by MR WILENTZ:*

Fisch was already in the Hauptmann house when the witness arrived on the night of the December second gathering.

## BERTHA HOFF

*Direct examination by MR REILLY:*

In 1932 the witness lived at 4052 192nd Street, Bayside. In October of 1933 a farmer named Budreau came to her house with another man. Her recollection being "refreshed", she decided that the visit came in November 1933, "because I am sure we spoke about Thanksgiving." The witness identified a photograph of Isidor Fisch as the man who accompanied Budreau.

The attorney general interposed an objection when Mr Reilly sought to elicit information concerning a package Fisch was supposed to have attempted to leave with the witness.

MR REILLY: Now, if the Court please, we might just as well face the issue. . . . During the day I am prepared to prove, if my witnesses come from New York, that the man who jumped over the cemetery wall was Isidor Fisch, that the money was handed to Isidor Fisch, that Isidor Fisch from that day on not only approached one but many persons in New York, trying to dispose of this money. I am going to trace every connection of Isidor Fisch

with this money until he left on the steamer. I hope to be able to prove by witnesses, when he arrived in Hamburg, his actions before the immigration authorities in Germany. I am going to trace everything I can to show that Isidor Fisch and not this defendant received the money from Doctor Condon, tried to dispose of it, tried to leave it, not only with this woman, but other people; finally left it with Hauptmann, and the development of the innocence of this defendant.

[*The Court excluded Mr Reilly's questions, and the witness left the stand, subject to recall.*]

### JOHN E. SEYKORA

#### *Direct examination by MR REILLY:*

The witness, an agent of the United States Department of Justice, Division of Investigation, worked on the Lindbergh kidnaping case with Agent Sisk. In 1934 he talked with Dr Condon concerning an attempt to find the box in which the ransom money was turned over to the extortioner in St Raymond's Cemetery. Dr Condon told him he went back to the cemetery several days after the kidnaping for "that special purpose, to see if he could locate the box." The witness did not know whether Dr Condon had been examined by alienists. If that were done, it was not under his direction or supervision.

#### *Cross-examination by MR WILENTZ:*

Q. Now Doctor Condon, you will remember, didn't go to the cemetery the next day [*after the ransom payment*] according to his statement to you? A. That is right.

Q. You know, don't you, that Doctor Condon was flying up there in the skies with Colonel Lindbergh looking for the Lindbergh child; you remember that, don't you? A. Yes sir.

Q. He spent the whole day up there, you will recall? A. So he said.

#### *Redirect examination by MR REILLY:*

The witness's investigation never disclosed that Dr Condon "sometimes dressed as a woman and masqueraded around the neighborhood", nor that Dr Condon was regarded in the Bronx as "eccentric."

Q. Did your investigation disclose that he [*Dr Condon*] told hundreds of people and thousands of people, since he passed the money over the railing down to the time he testified here, different stories concerning his connection with it? A. He told me something regarding that himself. He made a statement in that respect.

Q. How much of an investigation of Doctor Condon did you really make? A. As much as was thought necessary.

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## *Re-cross-examination by MR WILENTZ:*

Q. Just one thing: Your investigation showed that Doctor Condon was a patriotic citizen, interested in every civic piece of welfare in the Bronx during his many years; isn't that a fact?

*[Defense objections to the question were overruled.]*

Q. Is it not a fact that Doctor Condon was known throughout the Bronx as a leader in Boy Scout, Girl Scout and other civic movements, and as a patriotic citizen? A. Yes sir.

## BENJAMIN HEIER

The witness was temporarily withdrawn after a few questions, to permit examination of

## VICTOR SCHUESSLER

### *Direct examination by MR REILLY:*

The witness was present at the farewell party for Isidor Fisch, at the Hauptmann home, on December 2, 1933. He recited the list of guests, as previously testified by other witnesses. Fisch was already at the house when he arrived. Schuessler was a tenant of the same house occupied by the Hauptmanns. After Hauptmann's arrest some of his (Schuessler's) carpenter's tools were missing.

### *Cross-examination by MR WILENTZ:*

The witness didn't own a plane, and the chisel that had been introduced in evidence [S-210] was not his.

Q. Didn't you tell the police, when they asked you about Hauptmann, that you were always wondering where he got the money?

A. Well, I was wondering because he was not working.

## HILDA HEYNE

### *Direct examination by MR REILLY:*

Mrs Heyne remembered being present at the December second "party" for Isidor Fisch. She did not see Fisch when he came in, because she was in the parlor.

## OTTO HEYNE

### *Direct examination by MR REILLY:*

Corroborated the story of the farewell party to Isidor Fisch. He was in the front room when Fisch arrived and did not see him come in the house.

BENJAMIN HEIER [*recalled*]*Direct examination by MR REILLY:*

On Saturday night, April 2, 1932, the witness was with a young lady in a parked automobile in Webster Avenue, the Bronx. He "preferred not to give the name of the young lady." For two hours he remained there, near the wall of St Raymond's Cemetery, occasionally switching his lights on and off.

*Q.* Will you tell us now, without any leading, what transpired at one of the times you turned your lights on? *A.* I was—the headlights weren't on—I was turning them on and off absent-mindedly, at least sort of, and as the light hit the wall there—the light was hitting the wall when it was on, and it was darkness when it was off. Suddenly some—well, rather, a man hit the sidewalk as if he had jumped . . . from over the fence.

*Q.* About what time of night was that? *A.* I don't know; about nine-thirty and ten, maybe.

*Q.* Did you get a good look at his face? *A.* Yes sir.

*Q.* When did you next see that man or a resemblance to that man?

*A.* In the newspapers . . . when the trial started.

*Q.* And the picture that you saw in the newspapers was identified by what name? *A.* Isidor Fisch.

*Cross-examination by MR WILENTZ:*

The witness had been convicted of crime "once." He had failed to recall the cemetery incident in 1932 and had forgotten about it in October 1934 after Hauptmann's arrest. He declined to give the name of the young lady who accompanied him on the night of April 2, 1932, until the Court directed him to answer the attorney general's questions. The name, he said, was "Schwartz." The girl had since died. He arrived at the cemetery about nine o'clock and remained there until about eleven. His recollection as to the time he began "switching the lights on and off" was "approximately quarter to eleven" (not nine-thirty).

*Q.* Now you saw this face at quarter to eleven; between quarter to eleven and eleven, you saw a man jump out of the cemetery or off the wall, or wherever it was, and then you left; is that so?

*A.* After the man had run in the opposite direction I left.

*Q.* You couldn't be mistaken by an hour, could you? *A.* By an hour?

*Q.* When you say a quarter to eleven you don't mean a quarter to ten, do you? *A.* No.

*Redirect examination by MR REILLY:*

The witness said he recalled the incident when he found a letter from Miss Schwartz in which it was mentioned—a letter written in May

1932. The Court excluded the letter from evidence upon objection by the State.

*Re-cross-examination by MR WILENTZ:*

The witness did not have the envelope in which the letter was enclosed, to show Miss Schwartz's handwriting.

### GEORGE STEINWEG

*Direct examination by MR REILLY:*

Mr Steinweg was a steamship agent. On November 14, 1933, he sold transportation to Germany to Isidor Fisch and Uhlig, to sail on the Manhattan on December sixth. Fisch paid for both tickets and bought approximately \$650 worth of German registered marks, a total of \$1060. He had "quite some money in his wallet" after the transaction. Fisch seemed to be suffering from a very bad cold.

*Cross-examination by MR WILENTZ:*

Q. And on November 14, 1933, don't you know that Hauptmann gave him \$2000 for that very purpose? A. I don't know.

Q. So you don't know where the money came from? A. No.

*[At the conclusion of the examination of Mr Steinweg, Mr Reilly had exhausted the list of his witnesses present. He was admonished by the Court that he must have his witnesses on hand . . . "otherwise something unpleasant is likely to occur."]*

## TWENTY-SIXTH DAY

*Flemington, N. J., February 6, 1935.*

### SAM STREPPONE

*Direct examination by MR REILLY:*

**T**HE WITNESS operated a radio repair shop. He identified a photograph of Isidor Fisch as one of his customers. On May tenth Fisch brought to him a radio to be repaired.

*Q.* Did he come in the following Sunday? *A.* Yes sir.

*Q.* Did he have anything with him? *A.* A package.

*Q.* He left it there for how many hours? *A.* From two to, I think, eight-thirty.

The package was described as about twelve inches long and five or six inches high.

*Cross-examination by MR WILENTZ:*

*Q.* You were adjudged insane some years ago, were you not? *A.* In 1928; discharged with no psychosis.

*Q.* How many times were you in an institution for mental disorders? How many times? *A.* A few times.

*Q.* Eight times, six times, seven times, eight times? *A.* I will make it about five times.

*Q.* Was one of the times due to the fact that you threatened bodily harm to one of the women of the charity organization? *A.* Yes sir.

*Q.* One of the times for writing filthy letters to her? *A.* Abusive language, yes sir.

*Redirect examination by MR REILLY:*

*Q.* Well now, irrespective of these visits to the psychopathic ward of any institution, you are now doing business in New York? *A.* Yes sir.

*Q.* You are under no restraint now? *A.* No sir.

### E. PAUL SJOSTROM

*Direct examination by MR FISHER:*

The witness was a lieutenant of New Jersey State Police and assistant supervisor of the State Bureau of Identification. In his official capacity

he did not have, at any time, control over the so-called kidnap ladder. He did have custody of fingerprint photographs taken of the ladder.

Q. How many photographs were taken? *A.* Sixty-eight.

Q. I am asking you now about fingerprints. *A.* Well, there were approximately about a hundred and twenty-five finger marks shown on those sixty-eight photographs.

Q. What about palm prints? Were there any on there? *A.* Yes sir.

Q. Now do you know, Lieutenant, when those pictures were taken? *A.* Yes sir.

Q. When? *A.* Twenty-first day of March 1932.

Q. Don't you know, as a matter of fact, that your own department failed to find any fingerprints on that ladder for thirteen days? *A.* They didn't find it with the process they used, because there weren't any.

Q. Well then, where did the one hundred and twenty come from? *A.* Well, there were several hundred people handled that ladder between the first of March and the time it was processed with the silver nitrate.

Q. And afterwards, when Doctor Hudson processed it, he found a considerable number of fingerprints? *A.* Doctor Hudson didn't process that ladder. He demonstrated the process only.

Q. Were the ransom notes ever in your custody, the original ransom notes? *A.* Yes sir.

Q. And when in your custody did you ever submit them to Doctor Hudson? *A.* Not in my custody, no.

Q. How many prints did you identify on there out of the hundred and some that were found? *A.* About eight.

Q. Now, did you identify on the ladder at any time down to the present day the fingerprint of this defendant, Bruno Richard Hauptmann? *A.* No sir.

*Cross-examination by MR WILENTZ:*

Q. If this defendant, Mr Hauptmann, wore gloves when he was handling that ladder would his fingerprints show? *A.* No sir.

Q. Is it not a fact, Lieutenant, that your experience shows to you that men who are experienced in crimes wear gloves? *A.* Yes sir.

*Redirect examination by MR FISHER:*

Q. Your experience is, Lieutenant, that mothers in putting children to bed and nurses in putting children to bed don't wear gloves, do they? *A.* That is not my experience. I don't know.

*Re-cross-examination by MR WILENTZ:*

Q. You have never been a nurse, have you? *A.* No.

*Redirect examination by MR FISHER:*

Q. Nor a mother, I take it? *A.* No sir.

## LOUIS KUBLER

*Direct examination by Mr FISHER:*

The witness was a sergeant in the state police Identification Bureau. He was at the Lindbergh home when Dr Hudson arrived, either March 12 or 14, 1932, to demonstrate his silver-nitrate process. Dr Hudson worked on one section of the ladder only, but did not develop any finger-prints . . . "only finger marks." The witness and Trooper Kelly continued using the process on the remaining sections of the ladder, and developed about one hundred and twenty or one hundred and twenty-five fingermarks. Not more than twenty-five or thirty readable prints were brought out. Later the ladder was washed with bichloride of mercury to remove the red stains left by the silver nitrate, and this obliterated every mark. He did not know whether Dr Hudson had been permitted to demonstrate any fingerprint process for paper, or whether Dr Hudson ever saw the original ransom notes. The witness himself never saw the ransom notes.

FRANK A. KELLY [*recalled*]

*Direct examination by Mr FISHER:*

After repetitious testimony concerning the lack of fingerprints in the nursery—

*Q.* What about the weather that night [March 1, 1932] as to wind? Was it a windy night? *A.* As I recall it, coming from Morristown, it was cold and windy.

*Q.* How was the ransom note fastened down? *A.* It wasn't fastened down. It was just laid on the window sill.

*Q.* Did you at any time tell Doctor Hudson that over twelve hundred prints of the ladder were taken, inch by inch, photographs? *A.* No sir, I did not. I didn't even have that information myself. I would be in no position to know that.

The witness testified that the ladder was processed twice, with the old powder method, on March second. The ladder was extensively handled at a conference of police officials in Trenton, between the time of the commission of the crime and the date of Dr Hudson's arrival.

*Q.* Do you remember discussing one particular feature of this third section of this ladder with Doctor Hudson—and I refer to the side Rail 16? *A.* I don't recall any discussion with Doctor Hudson about the ladder.

*Q.* Do you remember discussing with Doctor Hudson the significance of the fact that there appeared to be in the side rail of the ladder only one nail hole? *A.* No sir, I do not.

Q. Do you say that you didn't have any such conversation with Doctor Hudson? A. Absolutely.

*Cross-examination by MR WILENTZ:*

A beer stein, on the window sill of the Lindbergh nursery, was so placed, in a recess, that "if you came through the window, the stein would not be in the way at all."

### OSCAR JOHN BRUCHMANN

*Direct examination by MR REILLY:*

The witness was a taxicab driver. He knew Isidor Fisch, having once worked for him. In May 1933 he met Fisch at Sixtieth Street and Broadway.

Q. Well, did Fisch exhibit anything to you at any time during that night in his conversation? A. Yes, he did.

Q. What did he exhibit?

MR WILENTZ: That I object to, if your honor please.

[*Discussion between Court and counsel at side bar, off the record.*]

THE WITNESS: He pulled a roll of bills out of his pocket and gave me a five-dollar bill.

[*Further discussion of materiality.*]

MR REILLY: Well, for the purpose of the record, I should like to have it appear that we are offering this witness and other witnesses, to endeavor to show that after April 1932, down to the time Fisch sailed for Europe, he exhibited to many people large sums of money and that is as far as I will go with this witness.

MR WILENTZ: If your honor please, I object to that statement in the record. . . . It hasn't been proven by any single witness, and I object to counsel putting it in the record.

THE COURT: I think counsel has a right to have it stated in the record. . . .

### GUSTAVE MILLER

*Direct examination by MR REILLY:*

The witness, a plumber, was called to the Hauptmann home in August 1934 by Mrs Rauch, the landlady, to repair a leak. He was shown the broom closet, and then went to the attic. [*He was shown a photograph of the attic.*]

Q. Now, did you see any board missing from this board to the board over to this wall? A. No, I didn't see that.

Q. Well, did all the boards appear to you to be in their place? A. Right.

Q. Now, had you been down in Rauch's cellar many a time? *A.* Right.

Q. Did you see any boards down there in Rauch's cellar? *A.* Yes, I did.

Q. What kind of boards did you see in the cellar, please? *A.* Well, they looked to be about five inches, five or five and a half. There was two of them. They looked to be on a slant. . . . That was what you call rough flooring.

*Cross-examination by MR WILENTZ:*

Q. The pipes in this closet were opposite the shelves, weren't they? *A.* As you look to it, the shelves are on the right side.

Q. Yes sir, and the pipes on the left? *A.* The pipe on the left.

Q. No pipe through the shelves, was there? *A.* Not through the shelves.

Q. Now, if I suggested to you that the pipe, maybe, is eight inches away, do you think that that might be too much or maybe that's correct? *A.* Well, I think that's a little too much, eight inches.

Q. Well, it might be six inches away? *A.* Well, we will say that.

Q. You don't know whether the boardwalk extended through the attic or not? *A.* No, I didn't look.

The witness was unable to give further description of the two boards he said, previously, he had seen in the Rauch cellar. He admitted he had noticed no other objects in the cellar or attic.

*Redirect examination by MR REILLY:*

Q. The pipe that you saw the water running down was the pipe that ran through the broom closet in the kitchen? *A.* Right, right.

THERON J. MAIN

*Direct examination by MR REILLY:*

The witness was in the trucking business and lived in Warsaw, New York. He identified a photograph of Isidor Fisch as that of a man he had seen in a New York bank, where he was having a draft cashed. Later, in a New York restaurant, he saw the same man give the bartender a twenty-dollar bill. He was close enough to see that the bill was a gold note. After leaving the restaurant Fisch "made contact" with him on the street and showed him some gold notes. He recalled the incident upon seeing a picture of Fisch in the Buffalo *Evening News*.

*Cross-examination by MR WILENTZ:*

Q. What is a gold bill? When you talk about a gold bill, what do you mean by that? *A.* I don't mean it is made of gold. It is a gold certificate.

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Q. Well, what do you mean by that? *A.* Well, it is yellow on one side and green on the other.

Q. I have brought one for you [*showing witness a twenty-dollar bill*]. *A.* A twenty-dollar bill.

Q. Take a look at it. One side of it would be green; the front of it would be like that; is that it? *A.* Why, I would say similar to that.

Q. And the back of it would be yellow? *A.* Yes.

Q. So that there is no question in your mind that when you saw a twenty-dollar bill you saw a gold back? *A.* Correct.

Q. That was when he delivered a twenty-dollar bill to the cashier, or whoever it was, in the restaurant? *A.* Yes, but I eventually got the bill. . . . I cashed it between Troy and Mainsburg.

Q. Goldish yellow, or yellowish gold on one side, and green on the other? *A.* Right.

Q. Don't you know the only reference to gold is a little certificate saying it was a gold certificate and it wasn't yellow or wasn't gold at all? *A.* I did not.

The witness refused to identify other pictures of Isidor Fisch as the man he saw in the restaurant.

In redirect examination by Mr Reilly, the witness repeated that he had cashed a twenty-dollar gold note which he had obtained from the cashier of the New York restaurant.

### GERTA HENKEL

#### *Direct examination by MR REILLY:*

Mrs Henkel met Hauptmann in July 1932 at Hunters Island. She met Mrs Hauptmann in October of the same year. Ten or twelve years before this date she had gone to school in Germany with Isidor Fisch. Fisch was, before the Henkel marriage, a roommate of her husband.

Q. Was there anything at any time in Mr Hauptmann's conduct toward you ungentlemanly or dishonorable? *A.* Certainly not.

#### *Direct examination by MR WILENTZ:*

Hauptmann had visited her home on the Monday before he was arrested and on the Saturday evening before his arrest. Mrs Hauptmann was not with him on either occasion.

Q. . . . Now, there were mornings he came, too, weren't there? *A.* Sure.

Q. And he used to have coffee at your home? *A.* Yes; I like my coffee.

Q. You like your coffee. Does Hauptmann like coffee too? *A.* You said it.

Q. What is it, madam? "You said it"? *A.* Yes, I said it.

Q. You don't run a coffee shop, do you? *A.* No, but it might be a good business someday.

Q. When Hauptmann met you at Hunters Island he was not with his wife? *A.* No.

Q. And that was in the summer of 1932? *A.* Yep.

Q. And then Mr Hauptmann came to your house and met your husband? *A.* Uh-huh.

Q. And while he was at your house he was introduced to Isidor Fisch; isn't that right? *A.* Yes. Well, it was, at the first time they met, at my house, they were introduced.

Q. So far as you know, Mrs Henkel—— *A.* Uh-huh.

Q. —the first time Hauptmann ever met Fisch was in your house; isn't that true? *A.* Well, but Mr Fisch told me he met him before, but it was the first time they met in my house. I didn't know that before.

Q. So far as you know, the first time Hauptmann met Fisch was in your house; is that right? *A.* Yes.

Q. And you were asked that question by the police? *A.* Uh-huh.

Q. When you were asked by the police about Hauptmann and Fisch, and when they got to know each other, didn't you tell them that you introduced Fisch to Hauptmann? *A.* But they knew each other before that.

Q. You introduced him? *A.* Well, that was before they told me.

Q. And when you introduced him, what happened? What did you say? . . . *A.* Oh gosh, I can't remember that.

Q. You don't remember; but you do remember you introduced them? *A.* Well, I didn't know any better.

Q. And at that time, after that time, you didn't know any better, did you? *A.* Yes, I did.

Q. When? *A.* When Fisch told me . . . it was a long time ago. . . .

Q. A couple of years ago? *A.* Yes.

Q. You knew that, then, when you were answering the police, didn't you? *A.* No, I didn't know it.

Q. You said years ago you found that out. *A.* I remembered it only later. Gee, we was so excited—we didn't know——

Q. You didn't remember when the police were talking to you? *A.* Gee, I answered anything; I don't know what I said.

The defendant used to visit her house once or twice a week in the morning, staying ten or twenty minutes. The Hauptmann home was about "an hour by subway" from the Henkel home.

Q. He brought you a present, one of the Christmas presents, didn't he, Mrs Henkel? *A.* Uh-huh. Got a nice slip, I got—I mean from Mrs Hauptmann and some, oh——

Q. From Mrs Hauptmann? *A.* [Nods head.]

*Redirect examination by MR REILLY:*

Fisch had borrowed money from the witness's father and had attempted to borrow money from her mother.

*Re-cross-examination by MR WILENTZ:*

Q. It is a fact, is it not, that in July or August 1932 you introduced Hauptmann to Fisch? Answer yes or no. A. Yes, before they—before Fisch told me about it.

Q. Yes, and when you introduced them, they both said hello to each other and shook hands, didn't they? A. Well, I suppose so.

*Redirect examination by MR REILLY:*

Q. And did Fisch tell you afterwards he had met Hauptmann long before? A. Yes.

Q. What did he say about it? A. Well, I don't know exactly when it was he told me, but they were always kidding my husband and myself and he said he kidded us about that. If they forgot about it, I don't know how he said it, or something like that.

Q. Had Fisch borrowed some money from your mother-in-law? A. Yes, sure.

Q. How much? A. Oh, over four thousand dollars.

Q. And he sailed without paying it back, didn't he? A. Sure.

*Re-cross-examination by MR WILENTZ:*

Q. They [*the police*] asked you, "When was it you introduced Fisch to Hauptmann?" And you said, "July or August"? A. Yes.

Q. Today you have a different story, haven't you? A. Yes, because I remember; I remember many more things than that.

Q. Not because you are a very good friend of Mr Hauptmann? A. No.

Q. Not because you had coffee with him two or three mornings a week? A. Oh, my God, no.

Q. You knew, did you not, and you have known right along, Mrs Henkel, that it has been an important matter as to when Fisch was introduced to Hauptmann? A. I didn't know it was important.

*Redirect examination by MR REILLY:*

Q. Now, nobody at the defense table here or anybody connected with the defense ever asked you to change your story, did they? A. Nobody did. . . . I just went over these things and I remembered things that I didn't know then.

*Re-cross-examination by MR WILENTZ:*

The witness denied that witnesses for the defense met at her home, but admitted that Mrs Hauptmann visited her once or twice, that Kloepen-burg lived in her house, that Uhlig was an old friend and that she had been to see the Muellers.

## ERASTUS MEAD HUDSON

*Direct examination by MR POPE:*

The witness had studied fingerprint chemistry for fifteen years and had developed a silver-nitrate process to get fingerprints from wood, although the process itself was not new, it having been used in France fifteen or twenty years before.

*Q.* Now, will you explain that process to me? *A.* Well, the silver nitrate combines with the sodium chloride or salt that is in the fingerprint secretion and that changes the silver nitrate into silver chloride. Silver chloride is sensitive to light. So that in a fingerprint, wherever the deposit of chloride—that is, sodium chloride or salt, in the original fingerprint—wherever that is converted into silver chloride by the silver nitrate when exposed to sunlight, those areas will darken and in that way you bring out the detail of the fingerprint.

The witness described his visit to the Lindbergh estate about March 13, 1932, and his demonstration of the silver-nitrate process before Trooper Kelly and Sergeant Kubler of the New Jersey State Police. The entire ladder was sprayed with his solution and exposed to the sunlight. He believed there were about five hundred fingerprints and fragments of prints brought out. He advised photographing the entire ladder. The salt crystals left by a finger would remain intact, ordinarily, for about six months, if weather conditions were right. . . . "Under ordinary conditions, if a man makes a ladder with his bare hands . . . and that ladder is kept in conditions such as would be in a house, or a garage, for a period of six months, the silver-nitrate process would undoubtedly reveal the fingerprints of the man that made the ladder."

*Q.* Now, at the time you were examining this ladder and it was being processed by the silver-nitrate process did you notice for any reason at all the rail that I now direct your attention to and which is marked Rail No. 16? *A.* May I see it?

*Q.* Yes sir. *A.* Yes, I remember this rail with the knot and the two nails on each side. I think somewhere in these charts there is reference to it, if I am not mistaken.

*Q.* And did your examination take into consideration nails, where they were placed, knots and nail holes? *A.* I recall one hole made at that time by a square nail.

*Q.* And was there more than one hole at that time in Rail 16 made by a square or cut nail? *A.* I can only recall one hole made in that rail that I saw at that time.

*Q.* Well, was your scrutiny of the rail such that if there had been four you must have found them? *A.* I would have seen them, yes.

## TWENTY-SEVENTH DAY

**D**R ERASTUS MEAD HUDSON resumed the stand.

*Flemington, N. J., February 7, 1935.*

*Direct examination by MR POPE [continued]:*

Counsel for defense sought to introduce reports and charts made by the witness concerning the ladder.

**MR WILENTZ** [*voir dire*]:

**Q.** Now, yesterday, when you were talking about Rail 16, you said, "Yes, I remember this rail with the knot and the two nails on each side. I think somewhere in these charts there is reference to it, if I am not mistaken." Will you look at the chart you have? **A.** These charts do not show that knot and the two nails.

**Q.** "I remember this rail with the knot and the two nails on each side. I think somewhere in these charts there is reference to it, if I am not mistaken." Are you mistaken? **A.** Well, with reference to these charts, yes sir.

**Q.** Will you please show us anywhere on any of these charts any reference to nail holes. **A.** I told you, sir, that on these charts there is no reference to nail holes.

**Q.** Now I show you 294 for identification. Do you see what purports to be a nail hole there? **A.** Yes sir.

**Q.** If this picture were taken in March 1932, showing these nail holes, then would you appreciate that you were mistaken in your testimony? **A.** Well, if I knew personally what this photograph was—

**Q.** A part of Rail 16. Assuming that this is a part of Rail 16, and that this picture was taken in March 1932, would you agree that possibly you were mistaken in your testimony? **A.** Well, under your premise, I would say yes.

**Q.** If the United States government reports showed in 1932 that there were four nail holes, would that lead you to change your mind? **A.** No sir, it would not.

The witness said that if the ladder remained for several hours on wet ground, that part of the wood that was resting on the ground would be affected and that any fingerprints on such portions of the wood might be obliterated. He admitted that the silver-nitrate process was never used successfully on wood with a painted surface.

Q. So Mr Hauptmann could have had his hands on the window sill morning, noon and night, and it wouldn't be revealed by your process; isn't that so? *A.* Yes.

*Redirect examination by MR POPE:*

The witness said he remembered the one nail hole because he had noticed that where the nail had been driven through none of the wood on the other side had been torn away, and he thought there might have been a cleat attached to the other side.

### WILLIAM WHITHEAD

*Direct examination by MR FISHER:*

Q. Mr Whithead, do you know Millard Whited? *A.* Yes sir.

Q. How long have you known him? *A.* All my life.

Q. What is the reputation of Millard Whited for telling the truth, being honest? *A.* No good.

*Cross-examination by MR WILENTZ:*

Q. Well, Mr Millard Whited never was in jail, so far as you know? *A.* No, not that I know of.

Q. But you were, weren't you? *A.* I were at one time.

### GEORGE E. LENZ

*Direct examination by MR FISHER:*

Q. Do you know Millard Whited? *A.* Yes sir . . . about twenty years.

Q. What is the reputation of Millard Whited as to telling the truth? *A.* Not good.

*Cross-examination by MR WILENTZ:*

Q. You and Mr Whited had some personal difficulties, didn't you? *A.* Yes sir.

Q. You sold him some lumber and he didn't pay for it, and you had a quarrel with him; isn't that right? *A.* No sir, didn't have no quarrel; don't quarrel with nobody.

Q. Well, you had a controversy with him? *A.* That's better.

Q. And he told you he wouldn't pay you because he thought the lumber was stolen; isn't that right? *A.* He thought so.

### WILLIAM DIEHL

*Direct examination by MR FISHER:*

The witness said Millard Whited's reputation for telling the truth . . . "ain't any good."

*Cross-examination by MR WILENTZ:*

The witness admitted he could not read a paper he had signed respecting the reputation of Millard Whited.

AUGUSTA HILE

*Direct examination by MR REILLY:*

Mrs Hile was the mother-in-law of Gerta Henkel. She had known Isidor Fisch since 1925. He had borrowed from her \$4350, which he had not repaid when he sailed for Europe in December 1933.

*Cross-examination by MR WILENTZ:*

Q. Do you know whether he invested that money in a pie-baking company? A. The first part he did; I loaned it to him in three parts.

*Redirect examination by MR REILLY:*

Q. Did he invest any in the fur business, the balance of it? A. He did, too, the second and third parts.

*Re-cross-examination by MR WILENTZ:*

The loan was made in three installments, first \$1500, then \$1850, finally \$1000.

KARL HENKEL

*Direct examination by MR REILLY:*

The witness was the husband of Gerta Henkel. He took part in the sports at Hunters Island and had lived in an apartment with Fisch and Uhlig. He first met Hauptmann in 1932 at Hunters Island. He knew that Hauptmann frequently came to his house in the morning for a cup of coffee.

Q. Did you ever see anything improper between your wife and Hauptmann? A. No.

Q. Did you ever have any feeling that there was anything improper between them? A. Never.

*Cross-examination by MR WILENTZ:*

Q. You introduced Hauptmann to Fisch, did you not? A. That is right.<sup>1</sup>

Q. You didn't meet Hauptmann until July 1932? A. That's right.

Q. You met Hauptmann at Hunters Island, not at your house? A. Right.

Q. Mrs Henkel didn't bring Hauptmann to your house to introduce Hauptmann to you, did she? A. I introduced Hauptmann to

<sup>1</sup>Compare Gerta Henkel's testimony.

Fisch in my house. I met him in Hunters Island. After that I became friendly and bring him to mein house. In mein house I introduced Fisch to Hauptmann.

*Q.* That was in July or August 1932; is that right? *A.* Yes sir.

*Redirect examination by MR REILLY:*

The Court excluded questions as to whether Henkel's wife or Fisch had told him later that Fisch had known Hauptmann before the introduction at Henkel's home.

HENRY UHLIG

*Direct examination by MR REILLY:*

The witness described himself as "Fisch's best friend." He denied that Fisch gave him money or supported him.

*Q.* He paid your passage to Europe? *A.* That is a lie. He did not pay my fare. He paid my fare with the money that he took from me to invest in his phony bakery.

*MR WILENTZ:* I move that be stricken out.

*THE COURT:* Yes, strike it out.

*MR REILLY:*

*Q.* How much money did you give him for the bakery? *A.* Four hundred dollars.

*Q.* And how much was your passage to Europe? *A.* It was—the ticket was \$208 round trip.

Fisch, the witness said, had appeared consumptive since 1929. With him, when he landed in Germany, he had a suitcase and a zipper bag. A question as to how Fisch acted when he faced the customs authorities in Germany was excluded as immaterial. The witness was at Fisch's home on the day Fisch was removed to a hospital. He did not see Fisch hand any papers to his sister.

*Q.* You knew he [Fisch] left some bundles with Hauptmann, didn't you? *A.* Yes.

*Q.* After he died you went back to Hauptmann's, didn't you, and tried to get the bundles? *A.* Yes.

*Q.* He wouldn't give them to you, would he? *A.* He did.

*Q.* What did he give you? *A.* We went down into his garage and he showed me two suitcases.

*Q.* Did you take them? *A.* No, we left them there.

*Q.* In particular you were looking for a little, small package that Fisch left, weren't you?

*[The question was excluded on State's objections.]*

The witness did not know whether the printing on the wrapping that contained the Lindbergh child's sleeping suit, when it was returned to

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Dr Condon, resembled Fisch's printing. He became acquainted with Hauptmann in the fall of 1932, meeting him at the Henkel home.

*Cross-examination by MR WILENTZ:*

Q. Mr Fisch was an American citizen, wasn't he? A. Yes.

### WALTER MANLEY

*Direct examination by MR REILLY:*

The witness, a painter, had known Fredericksen, proprietor of the bakery-restaurant, for about eight years. On March 1, 1932, he was in the restaurant about 7:15 P.M., and saw Mrs Hauptmann there.

Q. Did you see anybody else there that you see in the courtroom? A.

I see Mr Hauptmann, sitting over there. [Pointing in direction of defendant.]

The witness had told his story "within the past two months" to a man named Grant, who in turn had communicated with Mr Reilly. He had come from a sickbed to testify.

*Cross-examination by MR WILENTZ:*

The witness had known Mrs Hauptmann since 1928 or 1929, but had never known Hauptmann until the night of March 1, 1932. Although he saw news stories and photographs in the newspapers after Hauptmann's arrest he had never gone to the authorities with his story, nor to Attorney Fawcett, who originally represented the defendant.

### STANLEY SEAL

*Direct examination by MR POPE:*

The witness was a patternmaker. For demonstration purposes he had constructed a small wooden plane, in the "blade" of which were inserted two pencils, representing nicks. He showed that if the plane were held straight, the marks made by the pencils would be farther apart than if the plane were held at an angle—that the distance between the marks would vary with the angle at which the plane was held. The witness also planed a board with the Hauptmann plane [*in evidence*], first holding the plane in a straight position and then at an angle. The board thus planed was introduced in evidence.

*Cross-examination by MR WILENTZ:*

Q. You have just used this plane, haven't you? A. Yes.

Q. It shows nicks on both sides, doesn't it, on both sides of the piece of wood that you used? A. Yes.

## HUGH ORR

*Direct examination by Mr Pope:*

Mr Pope attempted to qualify the witness, an architect and graduate of the Massachusetts Institute of Technology, as an expert physicist, and after the witness had testified that the markings from the Hauptmann plane were "solid bodies", he was examined.

MR WILENTZ [*voir dire*]:

Q. Have you ever made a study of the marks made by particular tools, machinery or other agencies upon wood and lumber? A. No sir.

Q. In other words, you and I can agree that you don't know sufficient about wood— A. I am not a wood expert.

MR POPE: This witness is merely called to testify to the markings, the dimensions of the markings made by the plane bit on wood, that is all. He is not called to testify to annual growth or rings or strength of wood, or anything like that. It is purely a question of physics, on the three dimensions.

Q. In other words, if there is a mark on a piece of wood that is an inch long, you could measure it. A. Measure it, and I can measure its depth and its width.

MR WILENTZ: Well, I think the jury probably could do that, too, if your honor please. . . . And I think that this man hasn't qualified as to—

THE COURT: I don't think he has qualified.

MR WILENTZ:

Q. You are not a physicist? A. Not a physicist.

MR WILENTZ: Well now, counsel says he qualifies him as a physicist. He says he isn't.

[*The Court held that although Mr Pope failed to qualify the witness as an expert, the witness might testify to the dimensions of an object submitted to him "just as you might testify to it or I might testify to it."*]

The witness repeated that the plane markings were "solid bodies" and that the photographs would not show the third dimension of such markings.

## CHARLES J. DE BISSCHOP

*Direct examination by Mr Pope:*

The witness was a general contractor, boat builder and house wrecker. In his business he had had considerable experience in matching the grain of wood. He had raised some 37,000 trees near his home in Waterbury, Connecticut. Mr Pope sought to qualify the witness as a wood expert.

MR WILENTZ [*voir dire*]:

Q. Can you tell whether two pieces of lumber, if they ever were connected before, whether or not they were separated, can you tell me if they were at one time connected? *A.* I can.

Q. What authorities have you read on the subject? *A.* Well, I read them through the *Farm and Forestry*.

Q. What book did you ever read? *A.* I never read any book.

Q. Did you ever read an article in *Farm and Forestry* about the identification of wood? *A.* Yes.

Q. By whom, by Mr Koehler? *A.* Mr Koehler and several different ones.

Q. Well, don't you know, as a matter of fact, that Mr Koehler never contributed one article and his name never appeared on one article in *Farm and Forestry*? *A.* I didn't say that his name had appeared in that paper.

Q. Do you know how to tell how many knives there were in a planer that dressed the surface of a board, by looking at the board? *A.* I do not.

Q. Have you ever made any study of markings made by hand planers? *A.* Yes, to a certain extent.

The witness said that in finishing the floor of a house he found one spot that was rough. He made each carpenter plane a board with his own plane and thus discovered which plane had left the rough finish.

[*The defense admitted that it was not calling the witness as an expert, but only as "a practical lumber man." The Court permitted the examination to continue on that understanding.*]

The witness presented two boards which, he said, came from buildings one of which was forty-seven years old, the other five years old. He asserted that the grains matched perfectly. . . . "There is a different color there, but the grains are exactly the same; they will match right in circles and when you put the boards together, whichever way you do it, this way or that way, the top surfaces do not match, but the grains do match."

The witness presented two more boards which, he asserted, came from two different lumber companies. . . . "The end grain compares identically the same." He also presented two boards of bird's-eye maple which, he said, came from different trees and which "match exactly." He then produced a piece of oak to demonstrate how "erratic the grain is, and how it will change its course." He would say that this erratic departure from normal course occurred in twenty-five per cent of all wood.

Q. Now, have you made a study of the ladder rail, Rail 16, and the piece of wood marked State's Exhibit S-226 [*the floor board from Hauptmann's attic*]? *A.* I have.

Q. And how many times did you study them? *A.* Three times. . . . I

would say they are an entirely different board, owing to this knot here, which would show pitch and a darker color, far past the inch and three eighths; probably that is a little more than that. These rings are not the same kind of a knot ring as those here. . . . It can't match, not so far as the face surface of either side— This is the way it is supposed to be matched, isn't it? Which is the top? Which is the top, here?

MR WILENTZ: Just a minute. He wants to know—are you asking Mr Koehler which is the top?

THE WITNESS: Yes.

THE COURT: The witness ought not to ask questions. He ought to answer questions.

*Cross-examination by MR WILENTZ:*

Q. When was the first time you saw the ladder? A. Tuesday.

Q. Tuesday? A. No, Wednesday, I mean.

Q. Wednesday, yesterday? A. Yes.

Q. So that the only time that you have devoted to the examination of the ladder and the grain and the study that you have made has been since Wednesday? A. Yop.

Q. How much time did you spend Wednesday inspecting the ladder?  
A. Probably three hours altogether.

The witness admitted that the trees from which his first two boards came were each sixteen years old (when cut) although one board had been in a house forty-seven years and the other only five.

## TWENTY-EIGHTH DAY

CHARLES DE BISSCHOP resumed the stand.

*Flemington, N. J., February 8, 1935.*

*Direct examination by MR POPE [resumed] :*

The witness said he was able to determine whether a board came from the butt or top of a tree. The Court permitted him to illustrate his point with a small tree.

Q. Mr Witness, if this particular board here that is in evidence [*showing Exhibit S-226 to the witness*] had been attached to and was nailed fast to floor joists in the attic of a house and had lain there for some two or three years, would there be any markings or indications on the under side of the board where it comes in contact with the joists, the floor joists, that would show on the board? *A.* There should be a mark approximately every sixteen inches.

Q. That is, assuming that the floor joists are set sixteen inches on center? *A.* Yes.

Q. Now, if this board was nailed to floor joists with eight- or tenpenny cut nails, iron cut nails, not toed in, but nailed to the joists on the top, and had been nailed there for a couple of years, could that board be removed from the joists without showing the marks of a chisel or a bar or the marks of a hammer or nail-extracting tool? *A.* It could not.

Q. Do you see any marks of a bar or a nail-extracting tool or a hammer? *A.* No sir, there is no marks.

*Cross-examination by MR WILENTZ [resumed] :*

Q. Was it your intention when you talked about the joists and the markings on S-226 to convey the meaning that this board in your opinion had not been nailed down to joists? *A.* No sir.

Q. So that you won't say that was not nailed down to joists, will you? *A.* I will not.

*[The attorney general introduced into evidence two nails.]*

Q. Will you say that this eightpenny nail was not used in that ladder, or, either in the ladder or S-226, the floor board? *A.* That nail never was.

Q. Why do you say this one wasn't? *A.* *[Examines nail.]* Because

there is no marks. It is an impossibility to take a nail out of lumber in as straight a condition as that.

*Q.* Is that your testimony? *A.* Let's see that.

*Q.* Well, now you have looked at it and you have sworn to it. Do you want to reconsider your answer? *A.* Can I look at it again? . . . Yes, I would say it had never been used.

*Q.* Would you be surprised to learn that it had been one nail taken from the attic board, S-226? *A.* I would be awful surprised.

*Redirect examination by MR POPE:*

*Q.* Is there any definite way that you know of to tell the age of a tree by examining the ends of a one-by-six board? *A.* No sir.

Further examination revealed that several splits had developed in two pieces of board produced by the witness on the previous day. He attributed it to the heat.

*Re-cross-examination by MR WILENTZ:*

The witness repeated that the surfaces of his two boards did not match, although the ends matched.

*Q.* And if that piece [*indicating*] were in there, would it not be the same identical board? *A.* No sir, there has not.

*Q.* Isn't it a fact that that is just what you did? *A.* No sir.

*Q.* Didn't you actually cut out a piece and leave that home? *A.* I did not.

*Q.* Will you take a look at the back of these boards? Do you notice the black spots on each of them? *A.* Yes sir, they are both tar-papered over.

### WILLIAM BREVOORT BOLMER

*Direct examination by MR POPE:*

The witness lived on Route 31, four miles out of Princeton, New Jersey, at a place known as Bolmer's Corner, where he conducted a service station. He was graduated from Princeton University in 1914, with a degree in civil engineering.

*Q.* Now, going back to around the latter part of February 1932, did any persons drive up to your service station which caused you to take particular notice of them? *A.* They did.

*Q.* What kind of a car did they have? *A.* A Ford Model A, dark green coupe.

*Q.* And was there anything on that car that attracted your attention? *A.* There was.

*MR WILENTZ:* Just a minute now. I would like to know when.

MR POPE:

Q. Now then, the date when you noticed something peculiar or something fastened to the car, what date was that? *A.* That was March 1, 1932, 1:15 A.M.

Q. Now, will you tell the Court what it was that was fastened to this car that attracted your attention? *A.* A poor-looking ladder. It took me quite a while to know it was a ladder.

Q. How many men were in the car? How many people? *A.* One man, one woman.

MR POPE: Stand up, Mr Hauptmann. [*The defendant stands up.*]

Q. Is that the man? *A.* Positively not.

Q. How much opportunity did you have to look at the lady that was with this man, see her? *A.* Not—I could see her face. . . . She looked out once.

Q. Would you or would you not be able to recognize a picture of that lady if you saw it? *A.* No, I could only say it was similar.

*Cross-examination by MR WILENTZ:*

Q. Did you ever report this to the New Jersey authorities? *A.* I did not.

*Redirect examination by MR POPE:*

Q. Why? *A.* . . . I did not recognize the description of the ladder given to me. . . . The picture of the ladder I saw was extended. I saw the ladder nested. I did not think the ladder in the picture would nest. For that reason I did not think it was the same ladder and I didn't want to make a fool of myself by talking about something I didn't know about.

Q. Now, having seen the ladder itself, what is your opinion? *A.* It is the same ladder, sir.

*Re-cross-examination by MR WILENTZ:*

Q. Did you see a Dodge suburban or any other kind of suburban car with a ladder in it? *A.* No sir.

Q. You didn't see a Dodge car of any kind with a ladder in it, did you, that night? *A.* Oh no.

Q. What you saw was a Ford. *A.* A Ford Model A.

EWALD MIELKE

*Direct examination by MR POPE:*

The witness had been engaged in millwork since 1909. He had had experience in matching grains of wood "for panel purposes" and had used a plane, a hammer and a saw. It was his experience that nicks often developed in a hand plane. He had examined Rail 16 and S-226, the board from the Hauptmann attic.

Q. And from your examination . . . are you able to express an opinion as to whether or not they were ever part and parcel of the same board? *A.* Yes.

[*Mr Wilentz raised the question of the witness's qualifications and was permitted to cross-examine.*]

MR WILENTZ:

Q. You examined this ladder and this lumber yesterday at the noon recess or one of the recesses? *A.* In the afternoon, a short recess of about five minutes.

Q. . . . You don't match the pieces [*for panel purposes*] for identity, to see whether or not the two pieces came from the same board originally? *A.* I wouldn't try it.

*Redirect examination by MR POPE:*

Q. All right, now. Have you examined these boards, then? *A.* Just a short time yesterday afternoon.

Q. And did you examine the grain where they were said to match up with the grain in the ladder rail? *A.* Not close enough.

Q. Well, did you examine it close enough to express an opinion?

MR WILENTZ: Just a minute now. If your honor please, I object to that. That's his witness. He said he didn't examine it close enough.

THE COURT: I exclude the question.

MR POPE:

Q. Can you tell us from what portion of the original pine tree this particular board, S-226, was taken? *A.* Yes.

Q. What part of the tree did this board come from? *A.* The upper part of the tree. It is not a butt cut . . . because of the spacing of the knots.

Q. If it were a butt cut the knots would be spaced how? *A.* Closer.

Q. Is there any difference between that piece of wood in the ladder rail and this piece of wood known as State's Exhibit No. 226? *A.* In the board? Yes.

Q. And what difference? *A.* There is more life in this board than there is in that.

Q. Now show the jury what you mean. *A.* The different shadings in the rings here, they are darker here than they are here [*indicating*].

[*The Court excluded questions as to whether the witness could give an opinion regarding the identical origin of Rail 16 and S-226.*]

Q. From your experience as a carpenter and as a practical mill man, and from your handling, dressing, working and using lumber, and from your personal inspection of the board known in this case as the attic floor board, and from your personal inspection of the rail of the ladder, known as Rail 16, will you tell the jury whether

those two pieces of board were at one time a part of or one and the same board.

[*After objection by the State and the Court's ruling that the witness might answer*]:

THE WITNESS: They are not.

The witness further testified that the shape of marks or "beads" left on a pine board by a nicked hand plane would vary according to the position in which the plane was held.

*Re-cross-examination by MR WILENTZ:*

Q. Now, you have been asked and you stated that this board, S-226, was the top of the tree? *A.* Yes.

Q. Did you hear the last gentleman [*De Bisschop*] say that the fact that there were more knots on there indicated that it was the bottom of the tree? *A.* I did not.

Q. But it is your testimony that that board, in your opinion, S-226, is the top? *A.* Is the top of the tree. It is higher than this, the next cut.

Q. And didn't you hear the last gentleman testify that that couldn't be so because it had more knots in it, and he numbered them. . . . *A.* I wouldn't want to go back to that testimony and swear to it.

Q. And the extent of your entire investigation of these exhibits, S-226 and the ladder, was for five minutes yesterday afternoon? *A.* Possibly five minutes, yes.

[*At 12:02 P.M. a short recess was taken.*]

12:10 P.M.

[*After a short recess the jury was polled and all jurors answered present.*]

THE COURT: Counsel may proceed.

MR REILLY: The defense rests.

THE COURT: The attorney general may proceed.

## REBUTTAL

JOSEPH J. FARBER

*Direct examination by MR WILENTZ:*

Q. Now, on the night of April 2, 1932, where were you? *A.* At what hour?

Q. Well, about ten o'clock. *A.* I was at premises 1350 Sixth Avenue, Borough of Manhattan, City of New York.

Q. And did you have your car that night? *A.* I did, sir.

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Q. Did you have an automobile accident that night? *A.* I did, sir.

Q. With whom? *A.* With a car operated by one Benjamin Heier.

Q. Where did this accident occur? *A.* This accident occurred on the easterly side of Sixth Avenue, between Fifty-fourth and Fifty-fifth streets, Borough of Manhattan, New York City.

Q. Do you know how far that is from St Raymond's Cemetery? *A.* . . . Eight and a half miles south of St Raymond's Cemetery in the Bronx.

Q. Are you sure that Benjamin Heier was the man who was in the car that had an accident with you at ten o'clock that night? *A.* I am sure.

### *Cross-examination by MR REILLY:*

Q. Did you take a tape measure between the point of the accident and St Raymond's Cemetery and measure the eight and a half miles? Did you, yes or no? *A.* I did not, but I know exactly how many miles it is.

Q. Do you know how many blocks it is? *A.* About a hundred and seventy blocks.

Q. Did you count them? *A.* In my mind, yes sir.

## ARTHUR LARSEN

### *Direct examination by MR WILENTZ:*

The witness was the man who stood up to be identified when Mr Carlstrom testified. In 1932 he was a painter by trade and was working in Dunellen for a Mr Christensen.

Q. Now, on the night of March 1, 1932, where were you? *A.* In Dunellen, New Jersey.

Q. Where did you sleep in Dunellen? *A.* In the house where I worked.

Q. Who else slept there that night? *A.* Carlstrom.

Q. What time did you see him when you went to bed? *A.* Between nine and ten.

Q. Had he been there all evening? *A.* Yes sir.

Q. Did you get word sometime on March second that your wife was sick? *A.* I can't say it was March second or March third.

The witness said he worked in Dunellen about two weeks "and maybe a little more."

Q. And during those weeks did either you or Carlstrom leave Dunellen, New Jersey, any weekday or night? *A.* We did not.

### *Cross-examination by MR REILLY:*

The witness could not remember the exact date on which he went to work in Christensen's house in Dunellen. While he was there he slept

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on a mattress with Carlstrom. Carlstrom took care of the furnace. The cross-examiner asked him several questions as to his whereabouts at certain hours and on certain dates, to which the witness was unable to reply.

## OSCAR HILBERT CHRISTENSEN

The State's attempt to introduce in evidence an account book kept by the witness to prove the employment of Carlstrom and Larsen failed upon defense objection to its materiality.

Q. Now, on March the first, Mr Christensen, were Mr Carlstrom and Mr Larsen both employed by you, March 1, 1932? *A.* Yes sir.

Q. Do you know whether or not Larsen's wife was ill in March 1932? *A.* Yes.

Q. Do your records show that Mr Larsen was working, too, on March the first? *A.* Yes, it does. . . . He should be there, yes.

### *Cross-examination by MR REILLY:*

Q. You saw neither one of them March the first, did you? *A.* No, I didn't see either one of them.

## GEORGE G. WILTON

### *Direct examination by MR WILENTZ:*

The witness identified two photographs as correctly showing a portion of Rail 16 as it appeared on March 8, 1932.

MR WILENTZ: I offer the photographs in evidence.

MR REILLY: May I examine on the photographs?

MR WILENTZ: Yes, you may.

The photographs, the witness said, were enlargements. There was nothing on them to show when they were taken, but the witness had other records, a typewritten report, to show the date on which they were made. Nobody signed the plates or proofs.

[*The photographs were admitted in evidence as S-302 and S-303.*]

The photographs showed four nail holes in Rail 16.

### *Cross-examination by MR REILLY:*

The witness made the photographs in his office in Trenton. He did not change anything on the ladder before photographing it. The ladder was brought to him by Trooper Kelly.

Q. And you don't know whether anybody drove a nail through there before you were asked to photograph it, do you? *A.* Well, that I don't know.

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*Q.* Anybody could put one in there between the first of March and the eighth? *A.* [No answer.]

*Redirect examination by MR WILENTZ:*

*Q.* Just one question. The pictures which you testified you took on March 8, 1932, showed the conditions on that date; isn't that so? *A.* Yes sir.

*Q.* And the nail holes that are shown in those pictures were in that rail on March 8, 1932? *A.* Yes sir.

FRED H. SCHULTZ

*Direct examination by MR WILENTZ:*

The witness was withdrawn when he testified that he did not make an enlargement of a photograph displayed to him by the attorney general.

HAROLD S. BETTS

*Direct examination by MR WILENTZ:*

The witness, an employee of the United States Forest Service, inspected the kidnap ladder on May 23, 1932. He saw and made a record of four nail holes in Rail 16, and his original report, filed June 1, 1932, mentioned the holes.

*Cross-examination by MR REILLY:*

The witness could not say when, prior to his inspection of the ladder, the four nail holes had been made.

ALFRED BUDREAU

*Direct examination by MR PEACOCK:*

The witness testified that he knew Bertha Hoff.

*Q.* She has testified in this case that in October or November 1933 you came to her house with a man named Isidor Fisch. Is that true? *A.* No sir.

*Q.* Do you know Isidor Fisch? *A.* No sir.

*Q.* Did you ever go to her house in Bayside with a man named Isidor Fisch, who had bundles with him? *A.* No sir.

*Cross-examination by MR REILLY:*

*Q.* Do you know Mrs Hoff? *A.* I do.

*Q.* And she spent some part of a summer on your farm, didn't she? *A.* She did.

*Q.* With her two children? *A.* Right.

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*Q.* You wouldn't be any stranger if you came to her house? She would know you? *A.* Absolutely. . . . I think she would know me; she'd ought to.

### JOSEPH O. LEVENSON

*Direct examination by MR PEACOCK:*

The witness, a real-estate agent, was at the home of Mr and Mrs Henry Jung, in the Bronx, throughout the evening of March 1, 1932. While there he transacted some business with Jung and Isidor Fisch. The witness was shown some notes he signed at Jung's house on the date in question.

*Cross-examination by MR REILLY:*

*Q.* Am I correct in saying that March 1, 1932, was the only time you visited that house when Jung lived in it? *A.* No sir. . . . I visited him before in that house once.

*Q.* When was the next time? *A.* Not after March first; before March first I did.

*Q.* How long was he [Fisch] in your company that night? *A.* For close to four hours.

*Q.* Did you ever see him again? *A.* No.

### ERNA JUNG

*Direct examination by MR PEACOCK:*

The witness corroborated the previous witness.

*Q.* Give us your best recollection, Mrs Jung, as to the hours during which Mr Fisch was at your home during that night. . . . *A.* Between seven-thirty or eight until about a quarter to twelve or twelve o'clock.

*Cross-examination by MR REILLY:*

Mrs Jung had not known Fisch in Germany. She thought it was about one hundred and five or one hundred and ten blocks from her house to the Forty-second Street ferry. Didn't know whether an automobile could cover the distance in fifteen or twenty minutes.

*Q.* There was nothing about that night at that time that made you remember anything about Fisch? *A.* Well, I know that he was there, because a friend of us sent him here because he was sick. That is why I know it was Isidor Fisch was here at the time.

The remainder of the examination was designed to test the witness's memory.

HENRY JUNG

*Direct examination by MR WILENTZ:*

As the result of a business transaction the witness had certain money coming from a Mr Schloesser and a Mr Boehn. On the night of March 1, 1932, he received six notes, at his home. Isidor Fisch was present at the time of the transaction.

*Cross-examination by MR REILLY:*

Isidor Fisch was present to pay a note in behalf of his friend, Mr Schloesser.

*Q.* Look at these notes and see if the ink isn't almost still fresh on these notes?

*MR WILENTZ:* Just a minute. The tone of counsel's voice won't change the ink, if your honor please.

*MR REILLY:* It may impress it upon the witness.

*THE WITNESS:* I will tell you them notes mean money to me. I keep them in a clean place.

[*George Madison Priest was sworn as interpreter.*]

HENNA FISCH

*Direct examination by MR WILENTZ [through interpreter]:*

Isidor Fisch, the witness's brother, came home to Germany in December 1933 and lived at her home until he was taken to the hospital where he died. She met him at the main station in Leipzig. He had with him a small satchel, and another satchel came through by express. She helped her brother unpack the bags and saw everything there was in them. He had two suits of clothes, six shirts, a woolen shawl, two pairs of shoes, a few cravats and other small articles. He was taken to the hospital on March 27, 1934, dying two days later. In money he had about fifteen hundred marks (about five hundred dollars in American currency). He had nothing else of value so far as she knew.

*Cross-examination by MR REILLY:*

The witness did not meet her brother at Hamburg. She knew there were banks in Hamburg. Isidor Fisch had his return-trip passage with him, and she had no means of knowing whether he left anything in Hamburg.

*Q.* Do you know whether or not Doctor Lowenheim [*a lawyer*] tried to retain in America an attorney, in New York, to act for your family in the recovery of Isidor Fisch's estate? *A.* Yes.

Q. And did you and your family submit the following list of property which you claimed your brother Isidor left when he sailed for Europe: furs, pelts, stocks, a restaurant company and a bundle that was hidden? *A.* No.

Q. You say he did not submit to an attorney in New York . . . inquiries as to an estate of more than twenty thousand dollars, which estate was composed of furs, pelts, stocks, restaurant company and a bundle that was hidden?

*[The witness's reply, in which she started to say that her elder brother had heard something from America, was stricken from the record.]*

Q. Before your brother went to the hospital do you recall him handing you a package of papers and having you tear them up and throw them in the fire while you stood or sat alongside him? *A.* There were two slips of paper.

Q. And they were burned? *A.* Yes.

*Redirect examination by MR WILENTZ:*

Q. What were the two papers? *A.* My brother had written on these slips a list of things which he had sent us from America in the preceding years. . . . He noted what he had sent home, ten dollars here, ten dollars there.

Q. How much altogether? *A.* About, a little over a thousand dollars.

Q. For how long a period? *A.* Five to six years.

Q. Did you ever send any money to him? *A.* Later.

Q. Did you ever send him any money in 1932? *A.* Yes.

Q. How much? *[The question was ruled not competent.]*

Q. Did you find anything in his belongings or anything indicating any bank deposits in Hamburg? *A.* No.

*Re-cross-examination by MR REILLY:*

The witness knew there were safe-deposit vaults in German banks, but she had never had anything to do with such things.

JOHN F. O'RYAN

*Direct examination by MR WILENTZ:*

The witness was a major general in the United States army, in reserve. He was police commissioner of New York City in September 1934 when Bruno Richard Hauptmann was arrested and on the day after the arrest had a conversation with the defendant.

Q. It was testified here in this court by this defendant that before certain moneys were found in his garage, that he told you where these moneys were; is that correct? *A.* No, that is not correct.

Q. The moneys were discovered without any information from him?  
 A. Oh yes. The money had been found before he told me about where the money could be found.

*Cross-examination by MR REILLY:*

Q. Now, at any time when the money was found were you present? A. No.

MR REILLY: I move to strike out the testimony of Major General O'Ryan of the United States army on reserve as not competent, relevant or material and not proper rebuttal.

THE COURT: I decline to strike it out.

SELMA KOHL

*Direct examination by MR WILENTZ:*

Isidor Fisch lived "in the cheapest room" in her house, for which he paid \$3.50 a week. He had very little clothing.

Q. Mrs Kohl, Fisch was in the fur business, wasn't he? A. Yes.

Q. In fact, he employed a bookkeeper, didn't he? A. Well, I don't know anything about that.

Q. Louise Helfert, Miss Helfert? A. Yes sir.

Q. Did she live across the street from you? A. No, she lived right in my house.

Q. But did she live across the street at one time? A. No, she moved from my house after I put her out; she moved across the street.

The last time she saw Fisch was at noon, on December 5, 1933, when he said good-by. She did not know exactly how many bags he took with him, but she saw there was "very little" baggage.

WILLIAM KONIETZKO

*Direct examination by MR WILENTZ:*

The witness was a police officer in Princeton. Early in March he took Lou Harding [*a defense witness*] to the Lindbergh estate. On the way to the estate he discussed having seen an automobile near Princeton.

Q. At any time did he mention a ladder being in the automobile which he described to you? A. Not at all.

*Cross-examination by MR REILLY:*

Q. What did you take him up for? A. I took him up on Major Schoeffel's request; I was requested to investigate a man who had directed a car to Colonel Lindbergh's home on March the first.

Q. Is there anything in the world but your memory, as far as what he said to you? A. No.

## TWENTY-NINTH DAY

*Flemington, N. J., February 9, 1935.*

LEWIS J. BORNMANN [*recalled in rebuttal*]

*Direct examination by Mr WILENTZ:*

Q. There has been some testimony as to whether or not this board [*the attic board, S-226*] had ever been nailed down to a floor. Did you get possession of the nails that came from this board? *A.* Yes sir. I pulled the board up, broke it off, then asked Police Carpenter Cramer to drive the nails through, which he done, and extracted them with a pair of pliers.

Q. How many nails came out of that board? *A.* Eight nails out of that piece there.

Q. And are those the nails—how many of them are there? *A.* There are seven here and—

Q. And the one I introduced yesterday? *A.* —is the eighth.  
[*Package of nails marked S-306 for identification.*]

*Cross-examination by Mr FISHER:*

The witness held a lease on the Hauptmann house, for the police. He was certain that the nails marked for identification were the identical nails that were taken from the attic board.

Q. Which side of S-226 is the under side? Which is the side that was down to the crossbeam? *A.* This side right here. The marks of the beams will show there.

The witness pried the board loose with his hand, he said, using no instrument. The board was taken from the attic seven days after Hauptmann's arrest.

ARTHUR KOEHLER [*recalled in rebuttal*]

*Direct examination by Mr WILENTZ:*

The witness said that the marks made by Hauptmann's plane when used in court by the witness Stanley Seal were identical with the marks on the rungs of the so-called kidnap ladder. He continued that the two boards produced by the witness De Bisschop were at one time "one and the same board."

MR POPE: This witness is not qualified and hasn't qualified himself to identify two pieces of board that may have or may not have been a part of the same board at any time.

THE COURT: Well, it was determined at least two weeks ago that this witness was qualified for just this purpose.

The witness said that the "center bead" of the two boards matched exactly. The backs of the boards were rough, still showing the original saw cut. One was smoothed off slightly, an operation that had been recently done. The black spots on both boards were tar—the same material. The grain matched except in one place, where there was a knot.

MR WILENTZ:

Q. Now, what have you to say as to the size of the nails from the attic floor, whether eightpenny nails fit in the attic board, S-226? A. Yes, I fitted eightpenny nails in there and they fit just right.

Q. Mr Koehler, there has been testimony about nail holes, and prior to the arrest of Mr Hauptmann, the defendant in this case, you examined this ladder on various occasions did you not? A. I did.

Q. Now, did you make any observations as to the nail holes in Rail 16 prior to his arrest? A. I did.

Q. When did you make those observations, and what did those observations reveal in reference to nail holes in Rail 16 of the ladder? A. When I first examined the ladder, which was the first week in March 1933, I noticed that there were four cut nail holes in Rail 16 and I so stated in my report, dated March 8, 1933.

Q. Now then, again, did you on another occasion prior to Mr Hauptmann's arrest, did you again measure the distances between the nail holes and make a note of that? A. Yes, in November 1933 I made a diagram of Rail 16, and on that diagram indicated the distances between the nail holes in the rail.

Q. And all of that, sir, before the arrest of the defendant Hauptmann? A. It was.

Q. And did the nail holes, which you measured in 1934, prior to his arrest, and the nail holes which you observed in 1933, prior to his arrest—were those the nail holes which matched with the holes in the joists in Hauptmann's attic when you fitted it? A. They were.

*Cross-examination by MR POPE:*

Q. Now, when you studied and observed the plane marks on the ladder and when you undertook to duplicate them with the Hauptmann plane, if we may call it such, you tried to use the plane at the angle that you thought a man might have used it at in planing the rungs, didn't you? A. I tried to use it at the angle the plane commonly is used. That is, you run it as nearly parallel to the edge as you can.

The witness admitted that the ridges left by an imperfect plane were "solid bodies", but said that measurement of them—except as to the distances apart—would be practically impossible because of the variability of the wood.

Q. Now, since you have not established, Mr Kochler, what the dimensions of the nicks, or the spacings, are in the defendant's plane, and have not established what the dimensions of the nick ridges and the spaces on the ladder rungs are; in fact, having established no dimensions at all of the solids of the ridges on the board and the nicks in the plane, your whole premise fails, and your statement is merely an opinion, isn't it? A. No. I can measure the distance between houses in a block without measuring the size of the houses.

The witness measured the two boards [*Defendant's Exhibits 62 and 63, produced by the witness De Bisschop*] with calipers and found a variance of 3 sixty-fourths of an inch in thickness.

Q. Is it your idea that the witness for the purpose of deceiving us cut those boards apart and cut a piece off of one end of them? A. I don't know why he did it, but that is what he did, in my opinion. . . . There is a piece missing between the two.

Q. Now, you say that they were once a part of the same board, because you find that the grains match? A. Yes.

Q. And that is really your only reason for it, isn't it? A. No. The heart wood in the two, this darker portion, is exactly the same width in the two. You can see it from there to here [*indicating*].

Q. I believe you said that you examined the nail holes sometime in 1933, was it? A. Yes.

Q. That was a year after the kidnaping. A. Yes.

Q. And how do you account for the staggering of the nails in the one-by-six piece, in S-226? A. That's because the joists underneath that board were spliced with the ends, one alongside the other, and one nail was driven into one joist and the other into the other joist.

*Redirect examination by MR WILENTZ:*

Q. After your examination by Mr Pope, is there anything in that examination, question or answer, that causes you to change or modify your opinion as to the relationship between S-226 and the ladder rail? A. Nothing.

LEO SINGER

*Direct examination by MR WILENTZ:*

The witness lived at 2386 Ryer Avenue, the Bronx, in March 1932. The witness Louis Kiss visited his home "sometime in March or the early part of April."

Q. When he came to your home did you have a radio there? *A.* I did.

Q. When did you buy the radio?

[*Mr Reilly interposed an objection, citing that the witness Kiss mentioned no radio in his testimony.*]

MR WILENTZ: We will show, if your honor please, by way of connection, that when Mr Kiss came to this man's house, they discussed the radio and the radio didn't get there until March tenth. That is rebuttal.

THE COURT: That seems to be in confirmation of an affirmative fact which I understood you to establish as part of your case.

[*Mr Wilentz withdrew the question temporarily.*]

MR WILENTZ:

Q. How many times was Mr Kiss at your home? *A.* Once.

Q. Was he there March 1, 1932? *A.* Positively no.

*Cross-examination by MR REILLY:*

Q. Wasn't it after your daughter . . . saw her name and heard her name over the radio and saw her name in the newspapers that she told you to try and counteract Mr Kiss's testimony and take her name out of the papers? *A.* That is not the truth, sir.

Q. Now, as a matter of fact, Mr Singer, you came down here, did you not, at the request of a certain columnist of a New York newspaper? *A.* No sir.

Q. Well, he talked to you, didn't he? *A.* Yes, many of them did talk to me.

### OTTILIA HOERBER

*Direct examination by MR WILENTZ:*

The witness identified a paper signed by her, which she had given to Isidor Fisch.

Q. Can you tell when you gave him this paper? *A.* On the second April 1932 . . . in my house.

Q. What time of the day or what time of the night was he there? *A.* He was coming after we had supper, about seven o'clock.

Q. And how long did he stay that evening? *A.* . . . he talks to us for one half-hour, with my son, then I talk business with Mr Fisch. This may be nine or the half-past nine.

*Cross-examination by MR REILLY:*

The cross-examiner posed questions to test the witness's memory.

Q. Now, when Fisch came in, did he sign a ticket just what time it was, when he came to your house? *A.* What time? No.

Q. After talking to a lawyer and after talking to some people for the last two nights in Trenton you remember? *A.* Yes.

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*Q.* You come down here and do your best to remember that Fisch was in your house between seven and nine? *A.* Yes.

*Redirect examination by MR WILENTZ:*

*Q.* And you have a paper which you signed on April 2, 1932, to refresh your recollection, haven't you? *A.* Yes, I have one.

*Re-cross-examination by MR REILLY:*

The witness admitted that it would not take "more than ten or fifteen minutes" to ride in an automobile from her home to St Raymond's Cemetery.

### ERNEST MILLER

*Direct examination by MR PEACOCK:*

*Q.* Were you with Violet Sharpe on the night of March 1, 1932? *A.* Yes sir.

*Q.* Where did you see her? *A.* I met her at the Morrow estate.

*Q.* Who was with you at the time? *A.* Elmer Johnson and K. Minners.

*Q.* You said, at eight o'clock you met her at the Morrow estate? *A.* Yes sir.

*Q.* Did Violet Sharpe and Johnson, Minners and yourself go anywhere in an automobile? *A.* Yes sir.

*Q.* Where did you go? *A.* Orangeburg Peanut Grill.

*Q.* Did you and Katherine Minners and Johnson and Violet Sharpe stay at the grill all evening? *A.* Yes sir.

*Q.* Until what time? *A.* About ten-thirty, quarter to eleven.

*Q.* Did you see her to the Morrow house? *A.* Yes sir.

*Q.* About what time did you arrive there? *A.* About eleven o'clock.

*Cross-examination by MR REILLY:*

The witness said he first met Violet Sharpe when the young woman waved to him, while he was passing in an automobile, under the impression that he was someone she knew. This was about a week before March first.

*Q.* How long did you spend in her company? *A.* From eight till eleven.

*Q.* Did you ever see her again? *A.* Well, she was down at the morgue; I seen her. . . . I mean, when she was dead.

### KATHERINE MINNERS

*Direct examination by MR WILENTZ:*

The witness corroborated the preceding witness on all essential points, regarding the visit to the Orangeburg Peanut Grill on the night of

March 1, 1932, of Miss Sharpe, Ernest Miller, Elmer Johnson and herself.

*Q.* Then do I understand the night of March 1, 1932, from eight o'clock until eleven, Violet Sharpe was constantly in your company? *A.* She certainly was.

*Cross-examination by MR REILLY:*

The cross-examiner questioned the witness in an endeavor to test her memory for occurrences on other dates than March 1, 1932. She said she had never seen Violet Sharpe previous to the evening in which the group visited the Peanut Grill, and had not seen her since. The witness drank two glasses of beer at the grill, while Miss Sharpe drank only coffee.

*Q.* Who told you to remember that on March first, almost three years ago, a girl you had never seen before drank coffee in a speak-easy? *A.* I made a statement in June—

*Q.* I don't care anything about a statement. Who asked you to say that, some state trooper? *A.* No sir, they didn't.

*Q.* That's the only night that you can remember in your whole life distinctly, isn't it? *A.* Yes.

*Q.* And that's after you talked to the state police? *A.* No sir.

*Q.* You did talk to them, didn't you? *A.* I made a statement, yes . . . in June.

*Q.* You made a statement after the girl had died? *A.* Yes . . . and I reported it before too.

*Redirect examination by MR PEACOCK:*

*Q.* When did you report the fact you had been with her on March first?

*A.* About three days after the kidnaping.

*Q.* To whom? *A.* Chief of Police McLean, of Alpine.

ELMER JOHNSON

*Direct examination by MR WILENTZ:*

The witness corroborated the two preceding witnesses in all particulars, concerning the visit to the Orangeburg Peanut Grill on the night of March 1, 1932, with the Misses Sharpe and Minners, and Ernest Miller.

*Cross-examination by MR REILLY:*

The witness was first asked to testify by the state police, on February 4, 1935.

*Q.* Now, isn't it a fact that you are being substituted in this case for Red Johnson, who was in the car with Violet Sharpe on March 1, 1932? *A.* No sir.

*Q.* Did you know Red Johnson? *A.* No sir.

The witness did not remember where he was on the twenty-eighth or twenty-ninth of February, nor where he was on March second or third. He had never seen Violet Sharpe before the evening they went to the Peanut Grill.

*Redirect examination by MR WILENTZ:*

*Q.* You have given a statement to the police about this; you gave a statement to the police about this a long time ago, didn't you? *A.* Yes sir . . . 1932.

### GEORGE MARSHALL

*Direct examination by MR WILENTZ:*

The witness was employed by the Morrows in 1932 as night watchman. He testified that when he arrived at the Morrow estate on the evening of March first, at half-past eight, Miss Sharpe had gone out. She returned "very close to eleven o'clock." He saw her come into the Morrow premises.

*Cross-examination by MR REILLY:*

The witness knew Red Johnson, but Johnson had never been employed on the Morrow estate.

*Q.* You had no time clocks to check up the servants? *A.* No, I—not the servants. I had a time clock but not for the servants.

*Q.* Can you tell me . . . how long it would take to ride to the Alpine ferry from the Morrow estate? *A.* . . . Oh, you could get there in twenty minutes.

*Q.* Now you saw Violet Sharpe go out? *A.* No sir.

*Q.* All you know is you saw her come back? *A.* Yes sir.

### ELIZABETH MORROW

The witness was the mother of Mrs Charles A. Lindbergh. She was questioned regarding the presence of Violet Sharpe in her home on March first.

*Q.* Now, will you tell us about what time, the last time you saw her [Miss Sharpe] that evening? *A.* She served dinner, which was about seven o'clock, and I did not see her after a quarter before eight, about, until I saw her much later in the evening. . . . I didn't see her until after eleven o'clock that night.

*Q.* Would you say it was before twelve, before midnight? *A.* It was much earlier than that.

*Cross-examination by MR REILLY:*

The witness employed a butler named Septimus Banks. The butler did not serve dinner on the night of March 1, 1932.

Q. Did he—did the butler serve the next night? *A.* The night of the second of March I was not there. You see, I was in Hopewell, so I don't know.

Q. Was the butler's night off March first? *A.* He was in our house that night, but not serving.

Q. This last man was your night watchman? *A.* Mr Marshall, who just testified, was our night watchman.

MR REILLY: I think that is all, Mrs Morrow.

[*Mr Wilentz presented a photograph of the entrance to Woodlawn Cemetery, which was received in evidence.*]

MR WILENTZ: The state rests.

MR REILLY: The defense rests, if your honor please. And between now and Monday we will check over some of the exhibits that have been marked for identification, and if I find any that I think should be offered in evidence, I will do so on Monday morning. We have no surrebuttal, and we rest.

MR WILENTZ: If your honor please, as I understand it, both sides close their case at this time, subject to some oversight on the part of counsel in failing to have admitted an exhibit which is now admitted for identification, but which through the stress of the hours that we have worked here, we may have overlooked to offer in evidence . . . and with that understanding, of course, there will be no more testimony.

MR ROSECRANS: I now move, at the conclusion of the entire case, for the direction of a verdict of acquittal upon the same grounds as heretofore set forth in the motion for the direction at the end of the State's case. . . .

THE COURT: Well, I will deny your motion.

## SUMMATIONS THIRTIETH DAY

*Flemington, N. J., February 11, 1935.*

### SUMMATION BY MR HAUCK

**M**AY IT PLEASE THE COURT, ladies and gentlemen of the jury: . . . It is customary in criminal cases, and especially customary in Hunterdon County in criminal cases, for the defense to demand from the State what is known as an opening, and it is my assignment, as prosecutor of the pleas, in Hunterdon County, to give this opening to you. . . .

Members of the jury, the State of New Jersey contends that they have proven in this case, not only beyond a reasonable doubt, but conclusively and overwhelmingly, that Bruno Richard Hauptmann is guilty of murder in the first degree, that he is guilty of the murder of the infant, Charles A. Lindbergh, Jr. . . .

It is important for the State of New Jersey to prove in this case what is known as the *corpus delicti*. We have proved that to you. We have proved the body of the child. We have proved that the infant child, Charles A. Lindbergh, Jr was murdered. . . .

Now, ladies and gentlemen of the jury, we have further shown you in this case that the infant child, Charles A. Lindbergh, Jr, was forcibly taken from his crib.

Miss Gow testified that the covers were pinned to the mattress. Further, we have the fact that it was a very short distance from the top of the blankets to the head of the crib, which showed, and which was proof that the baby must have been yanked from that crib forcibly, and the fact that when she went in the room, when Colonel Lindbergh went in the room, after the baby was taken, that the covers still bore the impression of that little body.

Furthermore, at the very outside of the building, right below the southeast window of that nursery, was first a footprint, and alongside of the footprint was the double marks of the bottom of the very ladder that you see in this courtroom, and that ladder was placed, the two sections of it, by the officers, in an experiment, the bottom placed in those selfsame ladder marks, and the testimony was that where the top of the ladder touched the building, thirty inches below the window, there were marks from wood from the ladder on the side of the building.

Furthermore, the ladder was broken, and we have further proof that inside of that window, on the window sill, was a ransom note; on the window sill was a mud print; on the suitcase belonging to Colonel Lindbergh beneath the window was another mud print; alongside of the suitcase was another mud print, and that the mud print led from that very window over toward the crib in which the baby had been placed by Betty Gow—all of which is definite, conclusive, overwhelming proof that that body was forcibly taken from its crib by the defendant.

Then on May twelfth, we have the finding of the body of the child. It was Colonel Lindbergh's child. Colonel Lindbergh and Betty Gow positively identified that child as Charles A. Lindbergh, Jr. . . .

Doctor Mitchell, the county physician, testified that the child died from a fractured skull, and the fractured skull was of such an extent that it caused instantaneous death. It wasn't a mere blow. It was a severe blow. And we have proved to you that that baby was killed by the fall from that ladder. We have shown you that that very ladder was found on the Lindbergh premises and that by an experiment, when that ladder was placed next to the Lindbergh home, the marks of the broken ladder left marks against the building.

Now it is the contention of the State in this case that Charles A. Lindbergh, Jr., was killed in the commission of a burglary. You might say to me, "What is a burglary?" And my answer will be this: A burglary is the unlawful breaking and entering of a dwelling house in the nighttime, with the intent either to commit a battery or with the intent to steal. This was in the nighttime; it was between 8:00 P.M. and 10:00 P.M. It was 9:10 P.M. It was the dwelling house of Colonel Lindbergh and his family. There was a breaking and entering. The testimony

that I have already covered, the fact that when the baby was put to bed, pinned in its crib, the window was shut, the shutters were fastened, and when they went into the room again, the shutters were open and at the very foot of that window were the marks of a ladder, that that ladder was broken, that there was a footprint on the outside, and that in the inside was a note, the mud prints, the mud print on the window sill, the mud print on the suitcase, and the mud prints that led over to that baby's crib—all evidence, perfect evidence of a breaking and entering.

And then we showed you an experiment also, how it was possible it was done by a man going up the ladder, then came out the window with the bundle and the ladder broke; as the ladder did break, this crime was committed.

Now, what about the intent? We say that this defendant had both intents: that he had the intent to commit a battery; he had intent to commit a battery when he forcibly yanked the infant, Charles A. Lindbergh, Jr, from the crib. We also say that he had the intent to steal, and he did steal. He stole the baby's sleeping garments, and he stole the baby.

We brought the witness Whited here, a Hunterdon County resident, who came in this courtroom and testified that he saw that man [*pointing*] and he pointed that man out—about February 19th, and about February 27th, near the Lindbergh estate, five or six feet away from him, and that witness didn't come to us and tell a story in 1934 and 1935, but he described that very man the very next morning after the baby was taken from its crib. . . .

Mr Kochler gave the most wonderful testimony that I have ever heard. He came into this courtroom and he told you how, for months and months, over a period of a year and a half, before anybody ever knew of Bruno Richard Hauptmann, he went from mill to mill, and he tried to trace this lumber.

Finally, he went down to Senator Dorn's mill, and he found that they had a machine down there and that this machine had three sets of pulleys, that lumber of the same size of the rungs of that very lumber was planed by that machine. . . .

He traced that lumber. Senator Dorn said he saw the car load leave his mill.

Then we brought a man here from the lumber dealer. He said that he received that car. Then we traced that car into the very neighborhood in which the defendant, Bruno Richard

Hauptmann, lived, to the National Millwork & Lumber Company.

But that isn't all. We showed you that the defendant, Bruno Richard Hauptmann, not only worked in that very lumber yard, but also that he purchased lumber from that very lumber yard in December 1931, and that Mr Koehler found a piece of similar lumber in that lumber yard, as part of a bin.

And remember this: That all of this was done a year and a half before the arrest of Mr Bruno Richard Hauptmann.

Nobody knew Bruno Richard Hauptmann at that time in connection with this case.

Then we took you into this man's attic. We had Mr Rauch, the owner of the house, appear; and he told you how the attic had all its boards intact on the floor, that the board later shown to be missing was originally part of the ladder.

And then we brought Mr Koehler here, again on the stand, and he took the board from the attic, Exhibit S-226, and he took the rail of the top section of that ladder, and he laid them out here before you—silent testimony; testimony that couldn't lie—and he showed you many things. He showed you, first, that in the ladder rail were four holes.

And he showed you how they took that very board and placed it over the holes in the joists, and that the nails fitted in the holes; and we showed you by photographs that these holes were in the ladder when the ladder was found. The photographs were taken March 8, 1932, long before the time Bruno Richard Hauptmann was ever arrested, long before anybody knew about his attic. . . .

But there is more evidence that spells out to the very world Hauptmann, Hauptmann, in this case, and I am going to turn to the ransom notes.

There were several ransom notes in this case. The first note was the ransom note that was left by the murderer of this child on the very window sill of that room. The next note was mailed to Colonel Lindbergh, and the next note was mailed to Colonel Breckinridge, and the rest of the notes were either delivered or mailed to Doctor Condon.

We have proved to you conclusively, overwhelmingly, that the writer of the first note was the writer of all the notes. All the symbols were similar, and the elder Osborn testified and showed you by his device that the little punch holes showed, when they were held up together, that all these holes had the

same space between them and between the edge of the paper and the hole nearest the edge of the paper. . . .

Every bit of this evidence connects Bruno Richard Hauptmann with the murder of the infant, Charles A. Lindbergh, Jr.

But we have more than that in connection with the actual kidnaping and murder. We have the witness Hochmuth, the old man that stood on cross-examination, the old man that on the very late morning of March first, the day of the murder, said he was on his porch and a car drove around the corner too fast and almost went in the ditch, and the car stopped; and in that car was a ladder and the man's face grew red, and the man stared at him, and he identified Bruno Richard Hauptmann. He said: "Those eyes." . . .

Then we have Doctor Condon, Doctor Condon, the man who was for fifty years a teacher; Doctor Condon, the man who was willing to give his time, who was willing to give his money, who was willing to give his very life, so that the child could be returned to its parents, the man who went up and down the country. What did Doctor Condon say?

Doctor Condon said: "Bruno Richard Hauptmann was the man that jumped off the fence in Woodlawn Cemetery." Bruno Richard Hauptmann was the man that he sat an hour and twenty minutes next to on a bench across the street; and Bruno Richard Hauptmann was the man to whom he handed \$50,000 of Colonel Lindbergh's money; the man that gave him a receipt in the same writing—an hour and twenty minutes next to him on the bench. And he said the defendant, Bruno Richard Hauptmann, was the "John."

Then comes more testimony: Perrone, the taxi driver, Perrone, the man that was sitting in his taxicab when he says the defendant came up to him and said, "Take this note to this address." He came into this courtroom and said, "That is the man that gave me the note,"—written in the same handwriting, proved by the experts,—"which I took to Doctor Condon."

Then we have more testimony. Colonel Lindbergh testified that on the night of April the second when he went to St Raymond's Cemetery, and he sat in the car, he heard a voice and the voice called, "Hey, Doctor!" And he said the same voice that he heard in that cemetery was the voice of Bruno Richard Hauptmann. . . .

We brought a government man in here and had figures—

figures that don't lie; figures of Hauptmann's brokerage accounts; figures of his banking accounts, figures of his mortgages; figures out of his own diary, out of his own book, and we showed you by his own statements and by this testimony that he received approximately \$50,000 that he couldn't account for, try as he did—couldn't account for. . . .

And I am going to say this in closing: Remember, we are not required to have a picture of this man coming down the ladder with the Lindbergh baby. But we have shown you conclusively, overwhelmingly, beyond a reasonable doubt, that Bruno Richard Hauptmann is guilty of the murder of Charles A. Lindbergh, Jr.

### SUMMATION BY MR REILLY

May it please your honor, Mr Attorney General, his staff, gentlemen of the defense, ladies and gentlemen of the jury: I believe in approaching this case that I do it with a feeling of great responsibility.

I wish to give you a text from St Matthew: "Judge not, lest ye be judged," and ask of you in the consideration of this case that you bring into your hearts and into your consciences the feeling that you are weighing that which you cannot give back if you take away—life. . . .

Here is the pattern which his honor will charge you at the close of this case, and I believe he will charge you—and I have no desire to step outside or beyond the boundary line of my distinguished friend on the bench—but I think I can go this far, to say, so that you will intelligently understand my résumé of the evidence, that his honor is going to say this: that the State of New Jersey are relying here on proving these facts; that this defendant alone planned this crime—alone—nobody else. If you find it was a gang, or three or four others, the pattern is wrong.

Having planned it, he came here alone; and alone he entered that house, and alone he committed a burglary; and while in the commission of that burglary or felony, this unfortunate child was killed and was killed instantly.

Now, that is what they said in their opening they would prove. . . .

Now, they would have you in one breath believe that this man Hauptmann was a master mind, that he planned this him-

self and, the next minute, they would have you believe that he was the worst fool in the world, that he was dumb, that he didn't know anything; he would wear gloves making a ladder, so his fingerprints wouldn't be left behind; and he would sit an hour and a half talking to Condon, with his face exposed; in one the careful master mind, in the other the perfect fool. . . .

The first thing that you have got to decide when you go into your jury room is this: How in God's name did Hauptmann, in the Bronx, know anything about the Lindbergh home? . . .

I don't care about handwriting, I don't care about wood, nor do I care about the ransom money for which this man stands indicted in the Bronx and for which he has to stand trial there, nor am I going to allow you to pull the chestnuts out of the fire for Bronx County and say, "Well, because he had the money he must be guilty of something; therefore we will send him away for something." . . .

Now, is it possible, is it possible for any man, I don't care who he is—possibly for the architect, yes, or any of the people that worked on that house, but not a man in Bronx County, at least seventy-five to one hundred miles away from Hopewell—to know anything about Colonel Lindbergh's home?

Colonel Lindbergh was stabbed in the back by the disloyalty of those who worked for him, and despite the fact that he courageously believes that there was no disloyalty in the servants' quarters, I say now that no one could get into that house unless the information was supplied by those who worked for Colonel Lindbergh, and this is no fairy tale. I am talking now from the record. I am talking from the evidence in this case.

And what is the evidence in the case? The evidence is, sir, that the first time in the history of Colonel Lindbergh's life that he ever stayed a Tuesday night in that house was this Tuesday night. Every other week end was over Sunday night or early Monday morning. That is his own evidence. Who knew the baby had a cold and had to stay in Hopewell on Monday? Not Hauptmann. There was no doctor to give out the news. There were no tradespeople they suspected of giving out any news. Sunday night came and Sunday night passed, and this ridiculous assertion, "I have planned this for a year", is ridiculous because nobody in God's world but Colonel Lindbergh, his lovely wife, his butler, his butler's wife, Betty Gow, the servants in the Morrow home and Red Johnson knew that Colonel Lindbergh was going to be in New York Monday

night and would not be home Monday night. Now, that's his own testimony. Then comes Tuesday night, and Mrs Lindbergh, believing that the child's cold is sufficiently important, sends for Betty Gow.

Now, the colonel can have all the confidence in the world he pleases in Betty Gow. I have none. He doesn't know where she came from. She came from an ordinary employment agency, or she came recommended from some woman for whom she worked. She comes from Scotland, and she comes here when they give her \$700. Otherwise she wouldn't come. . . .

Now, as the house was constituted that night, there was the butler, there was his wife, there was Betty Gow, the colonel, Mrs Lindbergh and the baby—nobody else.

But there was one agency in that house that would only respond to its master, and that was that fox-terrier dog; and it is very important in this case. I hope there are some dog lovers on the jury, and some that have kept fox terriers—the snappiest, scrappiest, quickest-on-the-trigger dogs alive—when it comes to a watchdog. Who controlled that dog's movements that night? The butler . . . .

I don't know anything about these people, but I say the circumstances point absolutely along a straight line of guilt toward that butler and the servants who were disloyal to the colonel. . . .

A man can't come up to a strange house with a ladder and stack it up against the wall and run up the ladder, push open a shutter and walk into a room that he has never been in before. That is what they would have you believe.

This is a scenario that they have written. But it doesn't ring true to common sense, the common-sense view of things. That is why they pick a jury, not composed of lawyers or judges—for the common-sense view. . . .

And the moment anyone put their hand on that child, that child's cry ringing out would have brought the mother from the room across the hall.

Now, I will leave it to you mothers if I am not right. The person that picked that child out of that crib—I give you my solemn word, the inference I draw—knew that child and that child knew that person. Nobody—it is humanly impossible to pick up a child, twenty months old, unless that child had been doped—of course instead of a physic, if that child had been given paregoric or something, then the child wouldn't cry.

But who gave the medicine? Not Hauptmann. Who gave the physic? Not Hauptmann. And this little child is picked up and they would have you believe that Hauptmann, this man who never saw the child and never knew the child—and the child didn't know him—with a dog downstairs—now you have got a strange man in the house and all the doors open—goes back with a twenty-five or twenty-pound child in his arms, swings himself out of the window in the darkness and is able to find the top rung of that ladder, three feet below the window shelf, that rickety old ladder, and then, as he finds himself on the window seat and his feet touching the top of the ladder, is able to turn, with a child in his arms, and feel his way down the side wall and still hold onto the child and find the ladder, so that he can come down the ladder to the part where the dowel pin joins it together, and then they say the dowel pin broke—but unfortunately, what they say is not evidence, because this is resting in mud, this is resting in mud. . . .

Remember the evidence of the officer who found the ladder, the picture of the mud, the ladder over in the bushes, fifty to seventy-five feet away from the house, and not a footprint between the house and the ladder.

Now, you can't walk in mud without leaving footprints. Not a footprint between the house and the ladder.

I say that ladder was a plant; that ladder was never up against the side of the house that night. . . .

Now, am I right in saying that you have a right to assume from this evidence that somebody disloyal to the colonel entered the nursery, that knew that baby?

Oh, it was so well planned by disloyal people, so well planned!

Whateley is downstairs somewhere, with the dog that knows him—the dog that wouldn't bark when he makes a movement at him; and on the top floor, rear wing, over here [*indicating*], miles away, we might say, in the house from the sick baby, is Mrs Whateley and Betty Gow, talking about a masquerade dress; and the whole house between her and downstairs, second floor, left alone. And somebody comes in that knew that baby—I don't know whether it came from the Lindbergh house or from the Morrow house or where it came from; but those are the only two houses that held servants that had contact with this child.

And the colonel is eating dinner. He is secure in the belief

that he is safe, and his wife is there with him; and they are out of sight of the front door, and they are out of sight of the rear door, the servants' quarters, and all of a sudden comes the signal, "The coast is clear, they are at dinner." The telephone call from Red Johnson, that she had only left two hours before.

Now, what do you know about Red Johnson, or what do I know about him? I don't know a thing about him, but I do know this: He was Betty Gow's pal, and the State of New Jersey spent thousands of dollars to bring the Fisch family over here, with nurses and everything else—your money—and only being able to put one of them on the stand, and they didn't raise a finger to bring back from Denmark the man that talked to Betty Gow while the colonel was eating his dinner—Red Johnson.

Who is hiding things here? Who is hiding the truth?

Why wasn't Red Johnson brought back here? He entered this country illegally and he was allowed to go home. Was there any effort made to bring him back? No. Why? . . .

Now, they would have you believe—and this is more of their moving-picture scenario—that with a gale blowing, this note was left there. Even if the kidnapers had time to lay the note down on the window when he came in—and if he did I wonder how long this envelope would rest on that ledge with the window open, and over here the blinds of a window open so there would be air and a draft, a howling gale outside, how long would this piece of paper rest on the ledge of that window before the breeze took it and "st-st-st-st" across the room. It wasn't nailed and it wasn't pinned. There was nothing on top of it. It was just resting there. . . .

So the colonel goes out and he notifies his friend, Colonel Breckinridge, and he notifies the state troopers, and the first man that came in finds this note. Then they send for Kelly, the fingerprint man. What does Kelly do? It stands to reason and it is common sense that all over that room there were fingerprints, of Mrs Lindbergh, of Betty Gow and maybe of the baby, as the baby restlessly may have grabbed hold of the little crib.

Now, you cannot obliterate fingerprints by blowing them off something and this was within an hour after the baby left. But if somebody had been instructed, some of the disloyal servants of Colonel Lindbergh had been instructed that by taking a handkerchief and wiping around the crib or anything else they

touched, fingerprints would be wiped off—and somebody must have done it, because Kelly did not get a fingerprint of anybody in that room; he got some smudges, and he got some of what appeared to be parts of a fingerprint, but certainly, when a mother leans over the cradle and grips the cradle with her hands like this, she doesn't go like that [*illustrating*]. She doesn't smudge; she just puts her hands there, looking at the little sleeping infant.

They didn't even find fingerprints on the glass that Betty Gow had handled when she gave the child the physic. Now, who rubbed them out? Who rubbed them out? . . .

Now, may I address my remarks to you for a little time on the question of these notes?

It is not my intention to take the handwriting of each and every one of these experts. Expert evidence, his honor will charge you, I believe, is nothing more nor less than opinion evidence.

What does "opinion evidence" mean? "Opinion evidence" means this: that this man says, "I think it is this," and another man says, "I think it is that." And the wise courts and judges have decided for many years that a jury has a perfect right to disregard expert evidence altogether and use their own common sense, and that is what I am going to ask you to do in considering that matter, which I now address myself to—the ransom notes.

You were very patient when Trendley was on the stand. Trendley is honest. There is no doubt about that. Trendley for the second time of his life volunteered his services in a defense. . . .

Now, of course, it is very important for the prosecution in this case to try and pin this nursery note on Hauptmann. That is part of what I call their scenario.

But I ask you this, please, before finding that this is Hauptmann's handwriting (if you ever do, because he has denied it): Keep in mind, please, the fact that there is no evidence except this produced by the prosecution which puts Hauptmann in the nursery March the first; and this places him there through the opinion, or guesswork, we will call it, of Mr Osborn and those who followed him. . . .

Now, I shan't go into each and every one of these letters, because you will have them in the jury room. I want to trace their continuity.

Every expert that took the stand said that this was disguised handwriting. Now what benefit is a disguise? . . .

If this is disguised handwriting, where is there any standard by which it can be examined with that certainty with which you will send a man to his death, or with that certainty with which you would send a man away to life imprisonment? One "is", one "is."

And again I say to you, and I believe I am justified in drawing the inference, no one person could have planned this kidnaping, kidnaped the child, taken care of the child, written notes, run around the different states, New York and New Jersey, mailing these notes, followed up the notes, and still take care of the child. This, as I said, and intimated in my cross-examination, this kidnaping was the work of a gang, and by "a gang" I mean a collection of people bent on an evil undertaking. . . .

Then comes Colonel Breckinridge's note. It is more stumbling, I think, of the state police—and we must keep these facts in mind, friends: this child was kidnaped, came of a family that had all the influence in the world to compel, and could compel, by one word from your state police, to either the Police Department of New York State or any other state, to watch every mailbox, every mailbox in the city of New York, after this second note was mailed from Brooklyn. If they had done that, before the third letter was mailed, the man that was mailing the letters would be caught at the mailbox. But no, they didn't. They just sat down. They were in a fog. . . .

Then we come to the picture of what General Wilentz describes as "a patriotic gentleman of the old school."

Well, General Wilentz, you are entitled to your opinion of Doctor Condon as a gentleman of the old school. I don't share that opinion with you.

I am trying to use common sense, and I am going to ask you to use common sense.

Condon stands behind something in this case that is unholy, and I will bear it out, I think, by his testimony and by his actions.

I don't know Condon, and you don't know Condon. I don't know his associates. I don't know who he met in that restaurant, night after night in the Bronx. I don't know who he met on his different trips. I don't know anything about him.

But I do know that something stands out in this case that

you and I have a right to enquire into before we send anybody to jail for a day. . . .

The Condon of the Bronx knew nothing about Red Johnson unless he had a connection with him, and what is Condon's of the Bronx testimony concerning Red Johnson?

"Then why did you pick out a local borough paper with a circulation of 150,000, with all of New York's six million, to insert your ad? *A.* Because these papers all led to one poor miserable fellow that I thought was innocent. His name was Arthur Johnson."

Now why should he think? What right did he have to think? Here was a man under suspicion, here is the man they haven't dared to bring back, the man that received the telephone call from Betty Gow. Why should Condon come to the rescue of the only person in the world that they haven't brought back here, if he didn't know him?

Mr Condon goes to the Bronx *News*, as he tells us, and inserts a letter. Did you ever see the letter? I never did. I don't believe there ever was a letter, but I believe there was the same kind of a signal that passed between Betty Gow and Red Johnson at eight-fifteen or eight-thirty that night, when Condon put something in the Bronx *News*, a small, inconspicuous paper.

Now, I don't know anything about this man, but he stands out in this case, and . . . from that time on Condon is doing everything, always alone, alone, alone. . . .

If the defendant, as they charge, tore that from the sleeping garment, the thumb guard, why didn't he tear off two, because the baby was wearing two, one on each thumb. Where is the other one? Why plant things in this case? This case is planted, planted and planted against this defendant. . . .

That graveyard of St Raymond's should have been surrounded by police. That man, as he reached over and grabbed, wanted to grab \$50,000, should have been pounced on immediately. But it was Condon, Red Johnson's friend, Condon the ad-putter, who received a letter within twenty-four hours, that must have advised the colonel, "I have got everything under control; don't worry, I will get it; we don't need the police." And who saw Condon hand the \$50,000 over the railing or over a bush? Nobody—nobody in God's world but Condon. . . .

Now, a girl who is as sophisticated and worldly enough as Violet Sharpe to go out on the road and flirt with a fellow—

that may be harmless—doesn't commit suicide because she fears she might lose her job. Life is too sweet. But the net is closing in; the net is closing in. Sharpe has said something; Sharpe has given a clue. . . . Suddenly detectives come back and they say, "Bring Violet down here again." . . . And a poison which is never permitted in any home—cyanide of potassium, I think it was—this girl drained when she knows Inspector Walsh and the police have checked up and found something. She didn't do it because she feared she would lose her job. She did it because the woman from Yonkers, Mrs Bonesteel, told the truth. She was at the ferry with a blanket, and she was at Forty-second Street with a child, and that child was the colonel's child, and while I have the greatest respect for the distinguished Mrs Morrow, who appeared here at the last hearing of the court, I will say this: that I believe she is honestly mistaken. . . . I don't think Mrs Morrow remembers correctly that she saw Violet Sharpe at eleven o'clock or twelve o'clock, because it doesn't fit in with Violet Sharpe's suicide.

There is \$35,000 of this money missing. Where is it? If it was in circulation they would spot it immediately. . . . The inference I draw is this: that somewhere, in a safe-deposit box, under an assumed name, that \$35,000 that Isidor Fisch had is resting . . . that someday, when the payment isn't made on that box long enough, years to come, that box will be opened by the authorities and they will find the \$35,000 of this ransom money. . . . And how will you feel if, when that money is found—because it must be someplace, and Hauptmann hasn't got it; it never passed through any bank because the government would know it; and all this nonsense about this fellow from Washington telling you the money came in so fast and so furious that they didn't look for ransom money is a lie—

Not a dollar of that money, of that ransom money, ever went through Wall Street or ever went through a bank. One bank might slip up. But there was a bank in Mount Vernon. There was the Central Savings Bank. There was the bank the brokers did business with. Then there was another brokerage account. I think there were three brokerage accounts. There were three or more banks. And not a brokerage account, not a bank account from anybody in the world found a dollar of this money. . . .

They bring Hauptmann in, and they try to get him to con-

fess or make a statement, and he says, "I don't know anything about this at all." And then they say, "Will you write?" He says, "Sure, I will write. I am anxious to write. . . . I want to be cleared of this thing." And Hauptmann says, "I wrote as I was told to write. They spelled words for me and I spelled those words as they told me to." And not one soul went back on that witness stand in all the rebuttal to contradict Hauptmann on that score. . . .

They'd have you believe, the New York City police—not your Jersey police now—past masters in fixing evidence on people, that a man that never had a telephone in his life would crawl into a closet and would turn around in the dark closet . . . and over in a corner on a board he would write Doctor Condon's telephone number as it was three or four years ago, before they made the change. . . . Of all the crookedness in this case, of all the plants that were ever put into a case, this board on the inside of a closet is the worst example of police crookedness that I have seen in a great many years. . . .

I only hope there are some carpenters on the jury and I hope they examine this ladder very carefully, because this ladder was never made by any carpenter. I don't know who made it. . . . Now, Hauptmann didn't build the [*his*] house, and whoever built the house, and whoever built the garage, of course, put some lumber in it. So we have them finding a brace, an arm brace from the garage, and then you have them coming in and tearing up a board from the attic. Now do you suppose this board was ever taken out of any attic floor? Examine it carefully. There isn't a mark on this board from any hammer. . . .

Well, Mr Koehler comes in, and we come back again to expert evidence against horse sense. Mr Koehler comes in. I don't know why he got into the case. I assume that the importance of the case compelled those in Washington at that time to send him up. He is nothing more nor less than what we call a "lumber cruiser." He goes around the country spotting groves of trees to see what they are good for and reports down to Washington. . . .

Now, he'd have you believe by his testimony—and I don't see how he can sleep at night after giving that testimony where a man's life is at stake—that this carpenter, this defendant Hauptmann, who could buy any kind of wood in a lumber yard up in the Bronx, went out and got two or three different kinds of wood to make this ladder. . . . And he says to himself,

"My goodness, I am short a piece of lumber! What am I going to do?" There is a lumber yard around the corner. There is wood in the cellar belonging to Rauch. So he crawls up into his attic and tears up a board and takes it downstairs and saws it lengthwise and crosswise and every other wise to make the side of a ladder, the upper joint of which he never used or never needed. . . .

You men on the jury have handled boards. Here we have down in North Carolina, South Carolina, billions and billions of board feet a year; and then Koehler has the nerve to come in here and tell us—I suppose they are like fingerprints—there never were two boards in all the billion feet alike; and he says, "This board here was once a part of this board here." De Bischop says, "Nothing of the kind. The grain isn't alike; the knots are not alike." . . .

The case is too perfect from the prosecution's point of view and what they produced here. There isn't a man in the world with brains enough to plan this kidnaping alone and not with a gang—that master mind would be a carpenter—and then sit down and make the foolish mistake of ripping a board out of his attic and leaving the other half of it there, to make a ladder, a portion of which he never used. . . .

Manley leaves his sickbed—not for a movie contract like some of the witnesses for the prosecution, but because his sense of justice and decency tells him, "I saw that man and even though I am sick, get out of bed, I have got to go down there and tell them that man was in Fredericksen's restaurant March the first when I was there."

Not a dime from us, no bought and paid testimony like these experts for the State. He was there, he said. Well, if he was there, he wasn't in Hopewell.

Mrs Bonesteel: "I saw Violet Sharpe." Sommer: "I saw Violet Sharpe." "But you were a witness in the Hall-Mills case, weren't you?"

"Yes." Well, we can't go out and pick these people out of colleges. Anybody could be on a trolley car or a ferryboat, whether they had been Hall-Mills witnesses or whether they had testified in a civil case or no matter how they testified; they were there.

Sommer says—and here is the sincerity of his story: "I reported the next morning to a detective in the Ralph Avenue station house."

Now, I don't care whether Sommer had been in Sing Sing twenty-five times, if he saw Violet Sharpe with a baby and a man and a blanket and he went to the station house the next day and said to a detective, "I saw this, here is my name and address"; if he didn't, why don't they bring the detective down here? . . .

And all of a sudden the trial is suspended to bring in this girl from the Bronx. Doctor Condon never, in all his testimony, said he ever was in the Pelham station, sending a telegram or having an argument with anybody. But they bring this dizzy young lady from the Bronx, who is looking for a movie contract or something, and she tells the impossible story—plant No. 999. . . .

And all of a sudden, Isidor Fisch, who has not been absolved from this case, but who is very much in this case, goes to Mrs Hoff with Budreau, upon whose farm she lived, and he had some bundles and he wants to leave them. She says, "No, you can't leave them here."

And they bring Budreau in. He says, "I haven't seen her in seven or eight years." Well, I will take that lady's word, because that lady doesn't know Hauptmann at all. She said so on the stand. She is no friend of Hauptmann's, but she knew Budreau and she knew Isidor Fisch when he came to her house. Why would this mother come down here to commit perjury for a man she doesn't know? . . .

I believe this man is absolutely innocent of murder. Whatever charge there is against him in the Bronx will be disposed of. I don't believe you are going to pick any cherries or chestnuts or anything else out of the fire for the district attorney of the Bronx. . . .

And I feel sure, in closing, even Colonel Lindbergh wouldn't expect you and doesn't expect you to do anything but your duty under the law and under the evidence.

May I say to him, in passing, that he has my profound respect, and I feel sorry for him in his deep grief, and I am quite sure that all of you agree with me, his lovely son is now within the gates of heaven.

## THIRTY-FIRST DAY

*Flemington, N. J., February 12, 1935.*

### SUMMATION BY MR WILENTZ

**M**AY IT PLEASE YOUR HONOR and men and women of the jury: . . . "Judge not lest ye be judged," my adversary says, but forgets the other biblical admonition; "And he that killeth any man shall surely be killed, shall surely be put to death."

For all these months since October 1934 not during one moment has there been anything that has come to the surface or light that has indicated anything but the guilt of this defendant, Bruno Richard Hauptmann, and no one else.

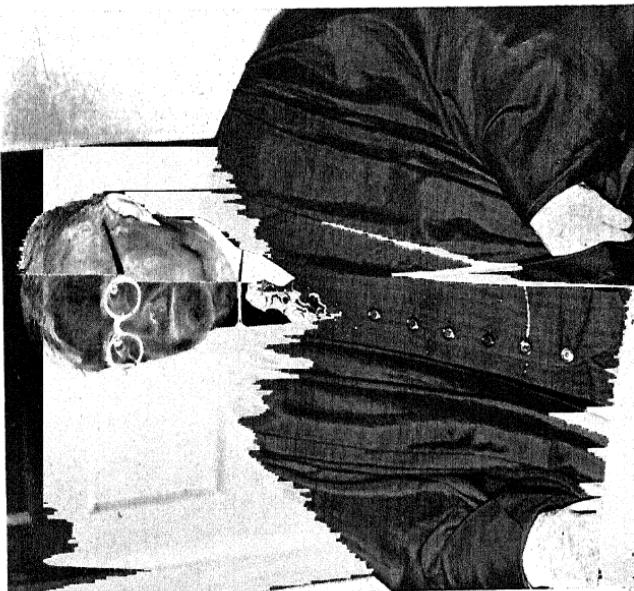
Every avenue of evidence, every little thoroughfare that we traveled along, every one leads to the same door; Bruno Richard Hauptmann. . . .

Now, Mr Reilly says for the defense that we have got to prove, in order to sustain this indictment, that Hauptmann did this job and did it alone. Well, that is a matter of law, that is not anything else. You don't have to worry about that, and I say to you jurors that that is not the law. So far as Hauptmann is concerned he could have had fifty help him; if he participated in this murder, that's all you have got to deal with. He can bring in Violet Sharpe's corpse and body and lay it right alongside of him if he wants; he can bring Isidor Fisch's grave from Germany and put it alongside of him. That doesn't help this defendant in this case a bit. If he participated in this crime, he is guilty, and it doesn't matter whether six, ten or fifty helped him. . . .

What type of man would murder the child of Charles A. Lindbergh and Anne Morrow? . . . He wouldn't be an American. No American gangster and no American racketeer ever sank to the level of killing babies. Ah no! An American gangster that did want to participate in the kidnaping wouldn't pick out Colonel Lindbergh. There are many wealthy people in



**DAVID T. WILENTZ**  
New Jersey's attorney general, whose brilliant prosecution of the case was successful despite the contradictions of his opening remarks  
*and his conviction*



**JUDGE THOMAS W. TRENCHARD**  
the presiding judge, whose handling of the case earned him universal praise; pictured in the Hunterdon County Court, Flemington, N. J.



city of New York, much more wealthy than Colonel Lindgh. . . .

Oh no! It had to be a fellow that had ice water in his veins, blood. That is the first thing.

It had to be a fellow who had a peculiar mental make-up, thought he was bigger than Lindy—that when the news his crime came out he could look at the headlines screaming oss the page, just as the headlines screamed across the pages en Lindy made that famous flight.

It had to be a fellow that was an egomaniac, who thought he omnipotent. It had to be a secretive fellow. It had to be fellow that wouldn't tell anybody anything. It had to be a fellow that wouldn't tell his wife about his money, who would ceal the truth from her. It had to be a fellow that wouldn't st a bookkeeper, that would take books and enter every le item, groceries, boats, everything, himself. It had to be a fellow that could undergo hardship, not ordinary hardship; it l to be a man that you could kill in cold blood here and he ldn't tell if he didn't want to—the kind of a fellow that ld stow away on a boat and travel three thousand miles sneak into the country in a coalbin, without food, without ter, a man that could undergo that hardship, and when he s apprehended in court he would go back again and try it r again. That's the type of a man. Try it over the second e and then a third time. A man that could undergo that sort a hardship. It had to be the sort of a man that, when he did ak and enter a home, he would break the burgemeister's ne; he would go through the window of the mayor's home Germany, not the ordinary citizen; not because the mayor a rich man, but because the mayor was a respected man r there; he was the most respected man in his community, burgemeister. It wasn't that he had the money, but there is aeting in the mental make-up of the type of man that would the Lindbergh child that would prompt him, when he did glarize, when he did open that window to go in and get ney, it would have to be somebody of position; it would have be the type of man that wouldn't think anything of forsak his own country and disgracing his own nation; it would e to be the sort of a fellow that would leave everything be- d and flee and go to another country and another land, a nge land; it would have to be the type of a man that would sake his own mother, sixty-five years of age, and run away;

yes, it would have to be the type of man that would hold up women at the point of a gun, women wheeling baby carriages. And let me tell you, men and women, the State of New Jersey and the State of New York and the federal authorities have found that animal—an animal lower than the lowest form in the animal kingdom, Public Enemy No. 1 of this world—Bruno Richard Hauptmann; we have found him and he is here for your judgment. . . .

Schwarzkopf, please stand up!

Jury, look at Colonel Schwarzkopf. Take a look at his eye. Does he look like a crook? A graduate of the United States Military Academy, a man who served his nation against his Fatherland on the fronts in Europe. Does he look like a crook?

Don't you suppose he is sorry for a German? He has German blood running through his veins. Do you imagine Colonel Schwarzkopf is going to frame this fellow up? . . .

Inspector Bruckman, will you do me the honor to stand up, please!

Jurors, look at Inspector Bruckman. One of the highest commanding officials in the New York Police Department, who became an inspector after twenty-seven years, risking his life many days and many nights, with an invalid wife at home. He has to listen over the radio that he is a crook today, a German.

And they say that because he is a German he marked on that board, in German script, what this man admitted he himself marked. . . .

What was the testimony about that board when the man was under oath? "So that when you looked at Exhibit A, which was presented to you by the district attorney of the Bronx County, and you looked at the handwriting thereon, you said that was your handwriting; isn't that so?"

"I said that is my lumber. I could not make out the handwriting."

Next question: "You said the number on there is your handwriting?"

Answer: "Yes." . . .

Mr William Frank, stand up, please!—Special agent of the Treasury Department of the United States of America. They say that he falsified the compilations in the record, and those records we got from Hauptmann's books. Those records we got from the brokerage accounts, those records we got from his bank account, those records we took from his own handwriting

and from his own statements, and Special Agent William Frank has got to be assassinated in order to save this man Hauptmann. What do you think of that? . . .

Arthur Koehler, who has devoted his entire life in the service of the United States government, at nothing else but this very work, he must be looking for advancement, a man who went up and down the length and breadth of this country before he ever knew such a person as Hauptmann ever lived or existed; who went from one mill to another, from one plant to another, following lumber, pieces of lumber, and who finally found in the Bronx lumber yard the lumber he was talking about, the type of lumber.

He knew, we knew, the world knew, that the man that built that ladder got part of the lumber from the Bronx lumber yard.

When? After he was arrested? After Hauptmann was arrested? Oh no. One and a half years—one and a half years before Hauptmann was ever arrested we came to that Bronx lumber yard and there we were stuck. We knew it came from there; we knew someone purchased lumber there; we couldn't find that fellow.

And what happens when he is arrested?

It develops he worked there. What else happens? It develops in December 1931 he bought nine dollars and some cents worth of lumber there.

So Arthur Koehler, Arthur Koehler, has got to be assassinated, assassinated by a lumberman from Connecticut and Massachusetts, or one from Massachusetts and Long Island. . . .

Did they tell you anything about their handwriting experts? Do you remember the day in here, there stood counsel for the defense and said to the Court, "Give us this adjournment; we want our handwriting experts, we want our handwriting experts—not one—to look over these ransom notes and these exhibits, and we will show them at the hotel in Trenton where the general has his headquarters." And we adjourned court, and we did show them to them.

I don't remember the names—they are in the record—Malone, Meyers and others, four or five or more, and only one man, all the way from East St Louis, only one man would dare walk in this courtroom to say it wasn't Hauptmann. . . .

Now, there is some talk about some more gentlemen in this

case. Red Johnson. Red Johnson had the unfortunate experience of being fond of Betty Gow, who had the unfortunate experience of finding it necessary to earn a livelihood, and it so happens she worked in the Lindbergh home. And so Red Johnson, because he knew her, and because he talked to her on the telephone the day of the crime or the day before the crime, was apprehended.

Now, Red Johnson was permitted to go back to Norway . . . because the New Jersey authorities, the New York authorities, the federal government, they checked him and they rechecked him, and they looked up his relatives, and they looked up his activities and checked where he was that night and where he had been the night before; they checked his bank accounts, the bank accounts of his relatives; they had Scotland Yard checking up—or the Norwegian government, whoever it was—checking up his relatives, and they found, "Well, what is the use of holding this fellow?" Don't you think that the police would have been delighted, long before they heard of Hauptmann; if they thought for one minute that Red Johnson had anything to do with it, would they let him go back? Why, in one breath my adversary says the State of New Jersey is wasting money: they brought the Fischers here, but they didn't bring Red Johnson. Why bring Red Johnson here? Because they want us to bring him, just to satisfy counsel for defense? If we had brought him here, they would have said we had wasted all this money bringing Red Johnson here. . . .

Betty Gow came here from Scotland. True, at the expense of the State. If Betty Gow had one scintilla of guilty knowledge, if there was the slightest germ in her system that indicated any knowledge, she didn't have to come here. If there was anybody in the world that might have gotten on that stand while she was in this country, she was in danger, wasn't she?

She came from Scotland by invitation. Of course we paid her way. A twelve-dollar-a-week maid couldn't be expected to pay her passage over and back. We had to keep her here. Every day we have had to keep her here to be ready in case they said something about her that wasn't true. And once they found out that Betty Gow was in this country, that stopped all talk about Betty Gow.

Contrast that and compare that with the defendant Hauptmann, over in the Bronx. Boy! When he heard the State of New Jersey wanted him, did he say, "I'll come over?"

Oh no! He wouldn't come to the State of New Jersey until after we had a trial before the Supreme Court.

We had to get a governor's warrant of the State of New Jersey. We had to go over to the governor of the State of New York. We had to then go to the Supreme Court. We had to go to the Appellate Division. We had to go up and down the line to induce the gentleman who said he was innocent to come over here and prove it. How about that as compared to Betty Gow? . . .

And then, even Mrs Morrow and Colonel Lindbergh are not altogether spared. They are paid the very gracious compliment—instead of calling them liars, they say they are mistaken.

Now, counsel for the defense brings in this lady from Yonkers, Mrs Bonesteel, and he says Mrs Bonesteel knows—a woman that had never seen Violet Sharpe in her life except that one occasion—she knows where Violet Sharpe was on March the first; a woman who, when shown a picture of Violet Sharpe, another picture, wouldn't know whether it was or it wasn't. But, be that as it may, Mrs Bonesteel knows, but Mrs Morrow is "mistaken"; the grandmother of the child that was killed is mistaken as to who was in that house on that night and when they were there; the grandmother, who got the call at eleven o'clock and who, the next day or that night, rushed down to Hopewell, she is mistaken. . . .

The family of Violet Sharpe and the family of Betty Gow—I don't know whether they know it, but from the date of this crime they haven't moved one inch—not only themselves but the immediate members of their families and people that they associate with—they are not free from surveillance for one minute of the day or night.

Talk about checking! They don't spend a quarter, if it is possible to check them, that it isn't checked—right from that day.

And Doctor Condon, his sons, lawyers, his daughter, the wife of an architect, himself and his elderly wife—why, from the very day that money was paid, they looked at every bank account and every dollar that was spent by them, to see if they had more money. It didn't have to be Lindbergh money—to see if there was more money, if they lived differently. Their wires must have been tapped; people moved next to them who watched them and observed them; it must have been done.

The government of the United States has spent a fortune—talking about New Jersey—the federal government—why, President Hoover said right at the start:

"We will move heaven and earth to find out who is this criminal who had the audacity to commit a crime like this." . . .

Now, Mrs Achenbach testified that on the second or third day of March 1932 Hauptmann and his wife were at her home and they talked about a limp. Counsel then said, "Why, they testified this man jumped off a nine-foot wall."

But, men and women, that was twelve days, or ten or eleven days afterwards. Anyway, *you* couldn't jump off a wall like that. It would take an athletic gentleman like Mr Hauptmann, not a consumptive little fellow like Fisch. He wouldn't be climbing up a nine-foot wall. . . .

Counsel says if he was in St Raymond's Cemetery, he would have torn this man limb from limb. Colonel Lindbergh didn't want anybody torn limb from limb. He didn't want the fellow that was mailing the letters. What he wanted first was his baby. . . .

Don't you suppose, don't you suppose the police, if it were so, would love to say that Violet Sharpe helped Hauptmann, and that would settle the argument about "somebody inside"?

They don't have to protect poor Violet Sharpe—Violet Sharpe, whose death was hastened by this man. . . .

Not one single dollar, not one ransom dollar, was ever traced to anybody connected with any member of the household. . . .

Counsel says, "Why, if it was anybody that walked into that room except somebody that knew the child, that child would have sensed it."

Well, I don't think that's exactly a fair statement of fact. I think that a stranger could walk into a child's room, a nursery, if the child were asleep, without the child awakening.

But let me tell you this: This fellow took no chance on the child awakening. He crushed that child right in that room, into insensibility. He smothered and choked that child right in that room. That child never cried, never gave any outcry, certainly not. The little voice was stilled right in that room. That's a fair inference that comes from its failure to cry; either there in the room or outside.

He wasn't interested in the child. Life meant nothing to

him. That's the type of man I told you about before that we are dealing with.

Public Enemy No. 1 of the world! That's what we are dealing with.

You are not dealing with a fellow who does not know what he's doing. Take a look at him as he sits there. Look at him as he walks out of this room, pantherlike, gloating, feeling good!

Certainly he stilled this little child's breath, right into insensibility, right in that room—whether it drew another breath or not doesn't make any difference, but that child never could make an outcry. The smudges on the bed sheet cry out evidence of that fact, that Betty Gow testified to, that the child didn't cry out when it was disturbed. Yanked—how? Not just taken up; the pins are still left in the bed sheets. Yanked, and its head hit up against that board—must have been hit. He couldn't do it any other way. Certainly it must have hit up against that board. Still no outcry. Why? There was no cry left in the child. Did he use the chisel to crush the skull at the time or to knock it into insensibility? Is that a fair inference? What else was the chisel there for? To knock that child into insensibility right there in that room.

Counsel wants to know why it didn't cry out. There is the answer for you. . . .

Where is that suitcase? There was mud on the suitcase. Why, I suppose the gentleman just brushed over it. Here it is. I suppose the inference is that you couldn't brush over it—that it would crush or something. I don't know about it, but I will stand on the suitcase and let's see what happens to it—a hundred and sixty pounds. He didn't stand on it. He just moved over it.

Now, I didn't plant the suitcase. Colonel Lindbergh didn't plant it.

Mud on the suitcase, mud on the carpet! They want to have pictures of the mud. Well, if we knew that at the time of the crime counsel was going to defend this man and that this man was going to be here now, we'd have brought the mud here for him. When we don't bring in the mud, they say we should have brought it in. When we bring in the ladder, they say it is too much. . . .

Now, counsel says that he would like to suspect Doctor Condon because Doctor Condon was always alone in his negotiations. Well, that's not the fact. Now, let's look at the

record. Doctor Condon was never alone. Doctor Condon never moved without Colonel Breckinridge or Colonel Lindbergh, except when he was to meet the kidnaper.

Now, when kidnappers and murderers want to negotiate for money, they don't come down to the Flemington courthouse before a jury and a judge, they don't go into a theater and get up on the stage and say, "I am the kidnaper; I am the murderer; where is Doctor Condon? I want to deal with him." They pick out some place where they won't be seen, some quiet place, a cemetery—very appropriate by Hauptmann; anyway, everything else about him has been dealing with the dead, either morally or physically dead. The people he blames are physically dead. The people that he brought here into this courtroom, most of them are morally dead, never had a sense of responsibility, most of them, didn't have a moral grain in their system, brought here from the jails—and I didn't send them to jail and I didn't make them convicts; they were convicts before they came here. . . .

And so, Perrone. Now, you know when Perrone delivered this note, he was soon interrogated by police. Whom do you suppose Perrone got the note from, before Hauptmann was arrested—five foot nine, muddy blond, of German extraction, muscular, athletic. Whom did Condon give the money to, a man of either German or Scandinavian descent. What did he say before Hauptmann was arrested? Five foot nine, of muddy-blond complexion, had a German accent, muscular, athletic, about thirty-five years of age—Perrone, too, somewhere around thirty-five, thirty to thirty-five, I think he said—before he was arrested.

What descriptions did the other give, whoever it was that was here in the case? The same thing. Does it look as if they were in this grave conspiracy? Has everybody suddenly conspired—the State of New Jersey, the agents of the State of New York, Colonel Lindbergh and Colonel Schwarzkopf and Colonel Breckinridge went over to New York, to Inspector Bruckman, (and they got General O'Ryan and Sam Foley, the Bronx district attorney in; then they got hold of Condon; then they took Perrone, and they took Miss Alexander, and they came over and got Hauptmann, and then they got Whited, and then they called on the attorney general, and they went to Washington, and they got the President of the United States to get his attorney general, Homer Cummings, and

Secretary Morgenthau, to get his agents—and I am going to come to the Treasury Department in a minute—and we all sat around the room and we conspired against Hauptmann. That is the defense. What a story! . . .

And Lindy remembers that voice. Mr Reilly says, "Why, he couldn't—how could Lindy remember?" Why, that voice! God! I can't sleep after I hear it nights, myself. And he says Lindy wouldn't remember it! . . .

Counsel wants to know where the missing money is, and he points out in the case as one of the alibis that the money which he originally got was from Fisch. That is the money in the garage. I am going to come to that later.

He says further, as an excuse for the other moneys, that he got most of that from Fisch too. Now, if Fisch got the ransom money and Fisch gave him the \$15,000 to pay into the brokerage accounts—Mr Reilly says, "Well, that wasn't ransom money that we paid to the brokerage accounts because a dollar never came back."

Well, if it isn't ransom money from Hauptmann, it wasn't ransom money from Fisch. I don't know whether I make myself clear at all.

The money that was paid to the broker, a good part of it, he says came from Fisch. The inference is that Fisch gave him the money in the shoe box. Fisch gave him this money.

Of course, not a living soul has testified that he ever saw Fisch give him two cents, outside of Hauptmann. Hauptmann's wife never saw him give him a dollar. Hauptmann's friend Kloeppenburg never saw him give him a dollar. The broker never saw him give him a dollar, not a quarter, not a check—and Fisch had a check account and Hauptmann had a check account—not one person living, not one book; Fisch left his books with Hauptmann. Do you remember Mrs Hauptmann's story? He left these satchels. There were some papers and books of Fisch's when he went to Europe. Of course he destroyed those, very likely. They weren't there when we got there, but not a living soul ever saw this man get a dollar from Fisch. But supposing he did? Fisch never had any ransom money, because whatever he gave him to give to the broker, whether it was a dollar or ten dollars, that money, counsel says, never came back, never came back from the government check. . . .

So we are down to April 2, 1932. Now, maybe you don't

catch the significance of the questions as to when he (Hauptmann) met Fisch. I want to tell you why—why they struggled so hard against showing that he didn't meet him until July or August. We contend that this defendant never met Fisch, never knew Fisch until July or August at the earliest—1932; and so we tried to prove by their witnesses, not by ours, by Gerta Henkel, the lady that operated a coffee kitchen, by Mr Henkel, and by Hauptmann and Hauptmann's wife—when he did meet Fisch. We didn't know. So when he was arrested and we asked him, he said, "I think July or August 1932." Yes, July or August, several months after the crime.

"Where did you meet him?"

"Mrs Henkel introduced him to me."

So we asked Mrs Henkel: "Do you know anything about Fisch and Hauptmann?"

"Yes."

"When did Fisch meet Hauptmann?"

"I introduced him at my home, July or August 1932."

Everybody told the same story. Now, when he gets on the stand, Hauptmann—only Hauptmann though—he slips away from his statements. He says at the end of March or early April. Now why? I will tell you why. He made certain deposits. The brokerage accounts will show it. He had deposited certain moneys in April. He deposited moneys in the brokerage accounts in May; he deposited moneys in June; he deposited them in July. How was he going to explain where that money came from? He couldn't say Fisch gave it to him.

He was going to blame the money on Fisch, but he couldn't say Fisch, because he had never met Fisch until the end of July or August. So he says, "Well, I must have met him at the end of March or April." But he never did, according to his own witnesses. So he starts right in in May. He has got this money, he is around passing bills and getting silver in change for it, a bill here and a bill there, and he deposits hundreds of dollars worth of silver during these years.

Oh, he says the bank clerks were also in conspiracy against him. Not only that, but he starts depositing these moneys. He puts \$16,942.75 in brokerage accounts. He puts \$9073.25 in banks. Fisch never gave him any money or anybody else ever gave him any money to put in his wife's maiden name in a savings bank. Thirty-seven hundred and fifty dollars in cash, which

he gave to a lawyer for a mortgage; \$120 in gold coins at home; \$14,600 ransom money in the garage; \$5500 which he wrote to the Fisch family and which he testified on the stand he gave to Fisch from his private bank account, for furs; \$49,986 unaccounted for after April 2, 1932, and between that time, the date of his arrest. . . .

Now, I was talking about circumstantial evidence. While I do believe that, in many instances, circumstantial evidence is of the strongest character and is the best evidence many times, we do not rely upon circumstantial alone. The circumstantial evidence in this case is sufficient but, in addition to that, we have the positive identification of this man by Doctor Condon. That is not circumstantial. We have got it by Perrone. That is not circumstantial. We have got the board in the closet. That is not circumstantial. That is his board. He admits it in his, his writing.

Hochmuth is not circumstantial.

Whited is not circumstantial.

Lupica is not circumstantial.

Colonel Lindbergh's identification is not circumstantial.

The brokerage accounts, the sleeping garment and the \$15,000 in gold in the garage is not circumstantial. And any one of these things is sufficient. . . .

Now, there was one thing about this fellow, the fellow that committed this crime. He had planned it. He wasn't going to let any faker come in and take that money. He had something on that note so that Colonel Lindbergh could tell, if another one came, that it was from the right party. . . .

And he put his signature on there. There was no mistake about that. There it is. You couldn't reproduce it. There it is: the blue circle, the red center and the hole; *b* in blue, for Bruno; *r* in red, for Richard; holes, *h* for Hauptmann. "Our singnature." Nobody could reproduce that except Bruno Richard Hauptmann; and to make sure they were right, he made all those papers of the same kind.

And the only notes that had that handwriting were the notes with his "singnature" on, and I am going to come to "singnature", pretty soon, and I am going to show to you what a shocking perjuror he is in this courtroom, right out of his own lips. Don't let me forget that word "singnature." . . .

Now, what did Condon do? Condon risked his life, risked

his life for Colonel Lindbergh, just as millions of people would.

Colonel Lindbergh thinks Condon is all right. Colonel Breckinridge, a member of President Wilson's Cabinet, thinks he is all right and thought he was all right. He must have been all right. . . .

Do you remember the testimony about the Faulkner money? And nobody could tell who deposited \$2900 or something like that in gold? Take a look at his accounts and you will see twenty some hundred dollars, that Faulkner money—somebody walked in and exchanged twenty-eight or twenty-six hundred—I forget which it was—exchanged some gold and got other money. That was an exchange, not a deposit, with the name of J. J. Faulkner, the name of a man who never could be found. Nobody knows who exchanged that money, but around that time in May, or whatever the testimony shows, 1933, you will find over \$3000 in one deposit in Mr Hauptmann's account. Where did he get the money? . . .

Now, Hauptmann gets down to the station, and they ask him to write.

Now, you will remember what he said: he made those misstatements—this is where I come to the "singnature"—he made those misstatements because they were dictated to him.

Now, you weren't there and I wasn't there. I don't believe this hokum about police and all these things that they try to hand us, but just the same, that's his testimony.

Now, he wants to explain how he made these mistakes, the same mistakes that he made in the ransom letters. Now, naturally, if he wrote "not" n-o-t-e in the ransom notes and then when they told him to write in the police station, request writings, and they spelled it for him, you couldn't hold that against him. If they told him to write it n-o-t-e and he put the e on at police dictation, you cannot very well charge him with misspelling; it has been dictated.

Now, he wanted to show that he didn't write "singnature" with an *n* in it. He wanted to show that the word "singnature"—well, I have got it anyway—in the ransom note, was spelled with an *n* and that when they dictated it to him they told him to spell it that way. . . .

"How do you spell 'signature'?"

"S-i-g-n-a-t-u-r-e."

That was in this court. You remember it.

"Did they tell you to spell it s-i-n-g-n-a-t-u-r-e——"

"They did."

"So when they were dictating the spelling, that was not your own free will in spelling?"

"It was not."

Now, he swears, we told him to spell "signature" that way.

You can take the request writings. You can go through every one of those misspelled writings, and there isn't the word "signature" on one of them to show that we asked him to spell it, right or wrong. What do you think of that?

And here he is in this courtroom. He knew the importance of that "singnature."

There isn't the word "singnature" in any one of these exhibits, the request writings, that we asked him to write. . . .

Look through them and see. And still he swears on the stand in this courtroom that we told him to spell "signature" with an *n*.

Why, did you hear the elaborate statements of my delightful adversary about Fisch, two or three days ago? "I am going to prove this, and I am going to prove that about Fisch, and I am going to prove this."

Why, he didn't prove anything except that Fisch was a poor man. He didn't prove anything except that Fisch died in poverty. He didn't prove anything except that Fisch never owned an automobile, never drove an automobile, had the cheapest room. He didn't prove anything except that Fisch was a fine fellow, an American citizen, and that while he was in this country he suffered tuberculosis during one of his visits to some resort and died as a result of it. . . .

We found no gold notes in Isidor Fisch's possession, not one. We didn't find a thing in his possession, either in this country or elsewhere, and during all this time there hasn't been one ransom bill that turned up in Germany, not one, not a single, solitary one—all in the Bronx. . . .

Now, an ordinary carpenter, not an expert, could tell right away that one of these [*ladder*] rails had once been used as a floor board. It is that type of wood, and they got to worrying when they saw these nail holes in 1932, if they ever found a fellow that was guilty, they might find some place where that might come from, and so they took it up and they laid it down there. . . . And sure enough, the nail holes fit exactly, and from there on they continued their investigation. . . .

They bring in Doctor Hudson, Doctor Hudson, who wrote down exactly what he found. Not a word about any nail holes. . . .

So the attorney general of the State of New Jersey, knowing that this ladder had gone to Washington in 1932, sent to Washington and said, "Send that man down here tomorrow"—tonight, right way! "I want to find out about those nail holes. This is serious."

So he comes down—Mr Betts. They didn't even examine him. He came down here and he spent the night, and the next morning he was on the stand, peruses his report, gives it to counsel—four nail holes, the picture of the ladder, Rail 16. He put the numbers on—you remember it—in 1932. . . .

Not only that, but Koehler's records show the same thing, the drawing of the distance between the holes and everything. . . .

But forget that, and forget the ladder rail if you want to. How about the testimony of Koehler, and the testimony of the Bronx lumber yard that a year and a half before Hauptmann was ever arrested they traced parts of that lumber to the Bronx lumber yard?

They didn't know who worked there. They didn't know who brought it there, but they traced it there, and they knew that before Hauptmann was arrested. . . .

So we make an investigation of bank accounts and brokerage accounts, and, lo, and behold! Hauptmann again! We find the money. We find \$50,000 of unaccounted wealth—\$50,000—within \$14. Now, I didn't put the money in his brokerage accounts. I didn't put the money in his bank accounts, and he hasn't accounted for it. . . .

Now, when he got that \$50,000, he told them where the boy was—on the "boad" Nelly. B-o-a-d. Now, here is his book. We didn't write it for him. It is a book of his accounts of his trip to California. . . .

Frankly, I didn't notice the word "boad" until I walked into the room here that morning. No secret about it at all, but just in turning the pages the word "boad" struck somebody, who pointed it out to me and there it was, b-o-a-d, just exactly as he has got it in here—not only the misspelling, but everything; "boad."

Now, that was a little peculiar, and he comes from Saxony, he says, and it was natural that he should write "boat" b-o-a-d

if he wrote it at all. And so we find it here and we find it there.

And what explanation does he give?

"Well," he says, "now, after all, that may have been eight years ago I wrote it in this book." He says, "You know a man learns something in eight years; he changes," or whatever he said. But the next day I showed him that this was about the California trip, which he wrote in 1931, three months before the murder, so it wasn't eight years at all. . . .

Now, men and women, don't be weak. Don't be weak! If he got that sleeping garment from somebody else, he had a chance to tell it to you. If he wrote those notes for somebody else, he had the chance to tell it. He hasn't told his lawyer a thing. He hasn't told this jury a thing. He didn't tell the judge in the Supreme Court a thing—he has got nothing to tell.

No, he proceeded on his way. If he left the body on the Lindbergh premises, he would never collect the money. He had to hide it. He hid it in the first convenient place . . . where he thought they would never find it. He didn't need the body. All he needed was the sleeping garment to get the money. He was right. He got the money, nobody else. . . .

Mr Reilly says the case is too perfect. No case can be too perfect, but it is perfect and it is only perfect because of his conduct. Every piece of evidence that we have, he has presented to us.

Now, men and women, as I told you before, there are some cases, there are some cases in which a recommendation of mercy might do, but not this one, not this one. Either this man is the filthiest and vilest snake that ever crept through the grass, or he is entitled to an acquittal. And if you believe, as we do, you have got to convict him. . . .

If you bring in a recommendation of mercy, a wishy-washy decision, yes, it is your province, I will not say a word about it. I will not say another word, once I sit down here in this case, so far as this jury and its verdict is concerned. But it seems to me that you have and you will have the courage if you are convinced, as all of us are—the federal authorities, the Bronx people who were there, the New Jersey State Police who were here, the lawyers who were here, Colonel Lindbergh who was here, everybody who has testified—if you believe with us, you have got to find him guilty of murder in the first degree.

A VOICE: If your honor please—

MR WILENTZ: If your honor please, I want that man taken out. Take him out.

MR REILLY: May we have the jury polled as to whether they heard what he said?

THE COURT: I didn't hear anything myself except "your honor."

MR WILENTZ: I think he ought to be put in jail anyway.

MR REILLY: So do I.

*[Further conference of counsel was held at side bar.]*

THE COURT: Ladies and gentlemen of the jury, it is very unfortunate that this scene had to occur here and that it did occur. I don't imagine the jury heard anything this man said except his exclamation that he wanted to address the Court. But if, perchance, you did hear anything that he said, my instruction to you is, at the request of counsel for both sides, that you utterly and entirely disregard anything that you heard and forget the scene. . . .

## THIRTY-SECOND DAY

*Flemington, N. J., February 13, 1935.*

### THE COURT'S CHARGE

TRENCHARD, J.:

Ladies and gentlemen of the jury: The prisoner at the bar, Bruno Richard Hauptmann, stands charged in this indictment with the murder of Charles A. Lindbergh, Jr, in the Township of East Amwell in this county, on the first day of March 1932.

It now becomes your duty to render a verdict upon the question of his guilt or his innocence and upon the degree of his guilt, if guilty. In doing this you must be guided by the principles of law bearing upon the case that I will now proceed to lay before you. . . .

“Reasonable doubt” is a term often used, probably pretty well understood, but not easily defined. It is not a mere possible doubt, because everything relating to human affairs and dependent upon moral evidence is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all of the evidence, leaves the minds of the jurors in that condition that they cannot say that they feel an abiding conviction to a moral certainty of the truth of the charge. The evidence must establish the truth of the facts to a moral certainty, a certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it. . . .

The fact of death seems to be proved and admitted. At the time of his death the child was about twenty months old. . . .

There is evidence from which you may conclude, if you see fit, that the person who carried away the child entered the nursery, or child's bedroom, through the southeast window of the nursery room, by means of a ladder, placed against the side

of the house, under or near the window, and that this occurred shortly after nine o'clock at night. . . .

There is also evidence to the effect that there was a dirty smudge on the bedclothes and also on the floor of the nursery, leading from the window to the child's crib, and a ransom letter left on the window sill. Later the child's dead and decomposed body was found by a colored man in, or hard by, a shallow grave, not far from the road, a few miles away, in Mercer County.

Doctor Mitchell, who performed the autopsy, testified that the child died of a fractured skull, the result of external violence, that the fracture extended from a point about an inch and a half posterior to the left, it extended forward probably three or four inches, it extended upward to one of the fontanelles, it extended backward around the back of the head; in other words, it was a very extensive fracture.

He further testified that, in his opinion, death occurred either instantaneously, or within a very few minutes following the actual fractural occurrence. . . .

Now, the ladder has been placed in evidence. Its broken condition when found in the yard has been described to you. . . .

In the present case the State contends that the uncontradicted evidence of Colonel Lindbergh and Doctor Mitchell and other evidence justifies the reasonable inference that the felonious stroke occurred in East Amwell Township, in Hunterdon County, when the child was seized and carried out of the nursery window and down the ladder by the defendant, and that death was instantaneous; and from the evidence you may conclude, if you see fit, that the child was feloniously stricken on the first day of March 1932, at the Township of East Amwell, in this county, and died as a result of that stroke.

Secondly, the State, in order to justify a verdict of guilty, must establish by the evidence, beyond a reasonable doubt, that the death was caused by the act of the defendant. The uncontradicted evidence is that the child was left by the mother and the nurse in the nursery, and the window was then closed.

The evidence justifies the inference, if you see fit to draw it, that the window was maliciously opened and the child seized, shortly after nine o'clock that night. You will, of course, recall the evidence to the effect that almost immediately after it was discovered that the child had been taken from its crib in the nursery, there was found the ransom letter demanding \$50,000,

on the window sill, on which was placed a peculiar symbol and peculiar punch holes, and stating that directions would later be given for delivery of the money. . . .

Doctor Condon testified that shortly thereafter he received a letter addressed to him and delivered to him by a taxicab driver, giving him instructions how to proceed. The taxicab driver testified that he was given that letter by the defendant Hauptmann. Doctor Condon testified that as a result of the directions contained in that letter and another letter he first had, on March 12, 1932, an interview in Woodlawn Cemetery with a man whom he identifies as the defendant after talking with him for more than an hour. In that interview he said the defendant said, after having run away from the gate, said, among other things, "It is too dangerous. Might be twenty year or burn. Would I burn if the baby is dead? I am only a go-between." . . .

It is argued that Doctor Condon's testimony is inherently improbable and should be in part rejected by you, but you will observe that his testimony is corroborated in large part by several witnesses whose credibility has not been impeached in any manner whatsoever.

Of course, if there is in the minds of the jury a reasonable doubt as to the truth of any testimony, such testimony should be rejected, but upon the whole, is there any doubt in your minds as to the reliability of Doctor Condon's testimony? . . .

If you find that the defendant was the man to whom the ransom money was delivered, as a result of the directions in the ransom notes, bearing symbols like those on the original ransom note, the question is pertinent: Was not the defendant the man who left the ransom note on the window sill of the nursery and who took the child from its crib after opening the closed window?

It is argued by defendant's counsel that the kidnaping and murder was done by a gang and not by the defendant and that the defendant was in nowise concerned therein. The argument was to the effect that it was done by a gang, with the help of some one or more servants of the Lindbergh or Morrow households.

Now do you believe that? Is there any evidence in this case whatsoever to support this conclusion?

A very important question in the case is: Did the defendant Hauptmann write the original ransom note found on the win-

dow sill, and the other ransom notes which followed? Numerous experts in handwriting have testified, after exhaustive examination of the ransom letters and comparisons with genuine writings of the defendant, that the defendant Hauptmann wrote every one of the ransom notes, and Mr Osborn said that that conclusion was irresistible, unanswerable and overwhelming.

On the other hand, the defendant denies that he wrote them, and a handwriting expert called by him so testified. And so the fact becomes one for your determination. The weight of the evidence to prove the genuineness of handwriting is wholly for the jury. . . .

Now, does it not appear that many of the ransom bills were traced to the possession of the defendant? Does it not appear that many thousands of dollars of ransom bills were found in his garage, hidden in walls or under the floor, that others were found on his person when he was arrested, and others passed by him from time to time?

You may also consider in this connection the evidence to this effect, that shortly after the delivery of the ransom money the defendant began to purchase stocks in a much larger way and to spend money more freely than he had before.

The defendant says that these ransom bills, moneys, were left with him by one Fisch, a man now dead. Do you believe that?

*[Here the justice made reference to the shoe box the defendant asserted had been left with him by Fisch.]*

His wife, as I recall it, said that she never saw the box; and I do not recall that any witness excepting the defendant testified that they ever saw the shoe box there.

As bearing upon the question whether or not the defendant was the man who took the child and left the ransom letter on the window, you should, of course, consider the evidence with respect to the ladder, if you find, as seems likely, that it was used in reaching the nursery. That the ladder was there seems to be unquestioned. If it was not there for the purpose of reaching that nursery window, for what purpose was it there? There is evidence from which you may conclude, if you see fit, that the defendant built the ladder, although he denies it. Does not the evidence satisfy you that at least a part of the wood from which the ladder was built came out of the flooring of the attic of the defendant? . . .

The defendant denies that he was ever on the Lindbergh premises, denies he was present at the time the child was seized and carried away. He testifies that he was in New York at that time. He denies that he received the ransom money in the cemetery and says he was at his home at that time, on the evening of April 2, 1932.

This mode of meeting a charge of crime is commonly called "setting up an alibi." It is not looked upon with any disfavor in the law, for whatever evidence tends to prove that the defendant was elsewhere at the time the crime was committed tends to contradict the fact that the crime was committed by the defendant where, as here, the presence of the defendant is essential to guilt, and if a reasonable doubt of guilt is raised, even by inconclusive evidence of an alibi, the defendant is entitled to the benefit of that doubt.

As bearing upon the question of whether or not the defendant was present at the Lindbergh home on March 1, 1932, you, of course, should consider the testimony of Mr Hochmuth, along with that of other witnesses. Mr Hochmuth lives at or about the entrance of the lane that goes up to the Lindbergh house.

He testified that on the forenoon of that day, March 1, 1932, he saw the defendant at that point, driving rapidly from the direction of Hopewell, that he got in the ditch or dangerously near the ditch, and that he had a ladder in the car, which car was a dirty green. This testimony, if true, is highly significant. Do you think that there is any reason, upon the whole, to doubt the truth of the old man's testimony? May he not have well and easily remembered the occurrence, in view of the fact that that very night the child was carried away? . . .

The defendant has produced some testimony besides his own, that he was in New York on the day and evening of March 1, 1932, and some testimony besides his own, that on the evening of April 2, 1932, when the ransom money was delivered, he was at his home. . . .

You should consider the fact, where it is the fact, that several of the witnesses have been convicted of crime and determine whether or not their credibility has been affected thereby; and where it appears that witnesses have made contradictory statements, you should consider that fact and determine their credibility as affected thereby. . . .

And when the case against the defendant is made up wholly

of a chain of circumstances and there is reasonable doubt as to any fact, the existence of which is essential to establish guilt, the defendant should be acquitted.

But the crime of murder is not one which is always committed in the presence of witnesses, and if not so committed, it must be established by circumstantial evidence or not at all. . . .

If the State has not satisfied you by evidence beyond a reasonable doubt that the death of the child was caused by the act of the defendant, he must be acquitted.

But if, on the other hand, the State has satisfied you beyond a reasonable doubt that the child's death was caused by the unlawful and criminal act of the defendant, while seizing, stealing and carrying away the child, and its clothing, of which unlawful act against the peace of the State the probable consequences might be bloodshed, it is murder; and if murder, the degree thereof must then be determined. . . .

There is evidence from which you may conclude, if you see fit, that the defendant feloniously, willfully and maliciously broke and entered the dwelling house of Colonel Lindbergh in the nighttime, with intent to steal the child and its clothing and commit a battery upon the child: that defendant brought the ladder to the Lindbergh house in East Amwell Township, in this county, and placed it up against the house near the nursery window; that shortly after nine o'clock at night he ascended the ladder, maliciously and willfully opened the closed window and entered the nursery room; that he seized the child and its clothing and carried it out of the nursery window; and that the fracture of the skull which caused the child's death was inflicted when the child was seized by the defendant and carried out and down the ladder, and when the ladder broke.

If you find that the murder was committed by the defendant in perpetrating a burglary, it is murder in the first degree, even though the killing was unintentional. . . .

If you find the defendant guilty of murder in the first degree, you may, if you see fit, by your verdict, and as a part thereof, recommend imprisonment at hard labor for life. If you should return a verdict of murder in the first degree and nothing else, the punishment which would be inflicted on that verdict would be death.

If you desire to return a verdict of murder in the first degree, coupled with imprisonment for life, then you must so put it in

your verdict, because the law reads that every person convicted of murder in the first degree, his aiders, abettors, counselors and procurers, shall suffer death unless the jury shall, by their verdict and as a part thereof, upon and after consideration of all the evidence, recommend imprisonment at hard labor for life, in which case this and no greater punishment shall be imposed.

The clerk may swear these constables to safely keep the jury until they have agreed upon their verdict.

[*At 11:23 A.M. the jury retired.*]

[*Thereupon counsel for defense recited their objections to the Judge's charge, all of which were overruled.*]

[*At 10:44 P.M. the jury returned a verdict of guilty of murder in the first degree, without recommendation of life imprisonment, against the defendant, Bruno Richard Hauptmann.*]









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